DOCUMENT RESUME

ED 345 831 PS 020 438

AUTHOR Flekkoy, Malfrid Grude
TITLE A Voice for Children: Speaking Out as Their Ombudsman.
INSTITUTION United Nations Children's Fund, New York, N.Y.
REPORT NO ISBN-1-85302-118-0
PUB DATE 91
NOTE 249p.
AVAILABLE FROM UNICEF, 3 United Nations Plaza, New York, NY 10017 ($23.95).
PUB TYPE Reports - Descriptive (141)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Child Advocacy; *Child Welfare; Family Environment; Foreign Countries; Government Role; Grievance Procedures; *Ombudsmen; *Program Effectiveness; *Program Implementation
IDENTIFIERS Childrens Reports; *Norway; *United Nations Convention on Rights of the Child

ABSTRACT

In 1981, the Norwegian parliament established an Ombudsman for Children to promote children's interests. This book describes the ombudsman's efforts to serve children, both in the past and the present, in 6 chapters. In Chapter One, a brief history of changes in families, children and society in Norway in the twentieth century is followed by details on the background and establishment of the office of the Ombudsman for Children. Chapter Two introduces the philosophy of, and the public relations techniques used by, the ombudsman. In Chapter Three, the types of complaints received by the Ombudsman are described. Complaints fell into the broad categories of: (1) children in uncommon circumstances; (2) child care and leisure time facilities; (3) school problems; (4) culture and consumer issues; (5) the family situation; and (6) children and planning. Chapter Four examines the effects of the work of the ombudsman on children and society 8 years after the office's establishment. Chapter Five evaluates the effectiveness of the ombudsman and considers alternative ways for ombudsmen to work. The final chapter offers a detailed examination of the Convention on the Rights of the Child. A 40-item bibliography is provided. Four appendices include a copy of the Ombudsman for Children Act; results of a 1989 poll regarding the Ombudsman; a list of hearings on children's issues between 1982 and 1989; and a pamphlet on children's rights and responsibilities. (BC)

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A Voice for Children

Speaking Out as Their Ombudsman

Målfrid Grude Flekkøy

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Speaking Out as Their Ombudsman

Målfrid Grude Flekkøy

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London

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First published in the United Kingdom in 1991 by
Jessica Kingsley Publishers Ltd
118 Pentonville Road
London N1 9JN

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British Library Cataloguing in Publication Data
Flekkoy, Malfrid Grude
A voice for children.
I. Title
323.3083

ISBN 1-85302-119-9
ISBN 1-85302-118-0 pa

Printed and bound in Great Britain by
Biddles Ltd, Guildford and King's Lynn

Acknowledgements

This book describes the joint efforts of many people, and would have been impossible to write without them. My deep gratitude goes first to the staff at the Ombudsman for Children Office in Oslo, all so dedicated that it was surprising to realise that there were only 4 people at a time in the office. In particular my thanks go to Marianne Borgen, who not only has served as Head of Division since 1984, but has reviewed the entire manuscript.

I owe particular thanks to Gary B. Melton, who carried out his own study of the Ombudsman Office, posing questions difficult for me to ask. He also shared draft manuscripts and spent generous amounts of time in discussions of our various ideas and conclusions.

The third group to whom I owe my deep appreciation are all the workers around the world who have been pioneering work in child rights. In particular I thank those who, in spite of their work loads, took time to talk with me, reviewing parts of the manuscript, and adding the international angles to what was basically a one-country study. The members of my Advisory Committee deserve mention by name: Nigel Cantwell (Defence for Children International), Rudolf Hoffmann (UNICEF/Geneva), Sanphasit Koompraphant (Foundation for Children, Bangkok) and Eugenia Zamora (Interamerican Institute for Children, Montevideo). They have thoroughly reviewed the entire manuscript, spent days discussing it and in general offered support as well as valuable advice.

Finally, UNICEF has made it possible for me to write this book, in the lovely setting of the Innocenti Centre in Florence. The entire staff deserves thanks for support, but I am sure all will understand that a special acknowledgement is due to James R. Himes, the Director of the International Child Development Centre (UNICEF/Florence). By air and by train, by day and by night, he has ploughed his way through draft after draft, adding comments, questions, and reflections on nearly every page.

My most *personal* thanks go to my children, who during my years as Ombudsman kept me sanely in daily contact with Norwegian childhood, adolescence and young adulthood, and who tolerated the burden of being the Ombudsman's children with great fortitude. The same patience has been gratefully received from my husband, Truls W. Gedde-Dahl. Moral support, reviews of draft manuscripts and corrections of my English have been the contribution of my father, Sigmund Skard. More long lasting and more important were the deep faith in, understanding and respect for and joy in

being with children, that he and my mother Åse Gruda Skard shared with all their children over a span of 50 years. As long as she lived my mother was also my best professional supervisor. If this book were to be dedicated to anyone else, it would be to her. As it is, I dedicate it to all the children of Norway who in the final analysis are the main contributors to this book.

Målfrid Grude Flekkøy

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Foreword

Through the adoption of the United Nations Convention on the Rights of the Child, the international community has recognised children as independent persons with their own integrity and human rights. The Convention entered into force on 2 September 1990, and many countries have already ratified it, including Norway.

Infants and young children, especially, are highly dependent on adults for their care and the satisfaction of their basic needs. In most societies, parents or other family members are expected to assume this responsibility, and generally we expect adults to have the skills and the ability to act in the best interest of the child. But this is not always the case. Too many children live in conditions where even their most basic needs are inadequately met. Children's rights and children's integrity, welfare and personal development are constantly being violated, both in developing countries and in the industrialised world.

We now have an important international instrument to secure better respect for children's rights. Experience in other fields has shown that rights cannot simply be declared or agreed upon - they must also be monitored and safeguarded. Accordingly, the Convention's real value will be demonstrated by our own ability to ensure its effective implementation.

If we ask Norwegian children about their most pressing concerns for their own future, most of them will answer that they are afraid of war and environmental degradation. Children often understand more than adults think they do, and our own anxieties and behaviour can affect children, leading to feelings of insecurity among them.

And what about children's current problems? The Norwegian Ombudsman for Children reports that children complain about the effects of divorce, abuse of alcohol in the family, sexual abuse and lack of care; in other words, situations where parents or other adults responsible for the child are often directly involved. They also expressed concern about problems in school and other institutions and about their living conditions and leisure facilities. In these situations children need an independent and strong third party to whom they can turn to seek advice.

The Ombudsman for Children was perceived as a felt need in Norway and was established in 1981, long before the Convention was adopted. Målfrid Grude Flekkøy was the first person to hold this position. Our experience with the Office of the Ombudsman has been very positive, and I

truly believe that Norwegian children have derived great benefit from having an Ombudsman of their own, to speak and act on their behalf.

We are glad to share this experience with other countries. I hope that *A Voice for Children* not only provides useful information but also serves as an inspiration to other countries in their work to develop national approaches to ensure better respect for children's rights.

Prime Minister Gro Harlem Bruntland

Preface

Following a ratification process quicker than that of any other international human rights instrument, the United Nations Convention on the Rights of the Child went into force 2 September 1990. Even before the draft Convention was presented to the General Assembly of the United Nations, UNICEF was seeking as well as developing materials which might be useful as implementation and advocacy tools for the critical follow-up activities. The real test of the Convention will be in its implementation and there are plenty of skeptics ready to declare this document just another example of international diplomatic rhetoric. Careful and continuous monitoring will be important on a country, regional and global basis to make sure the Convention does not become merely an additional declaration of good intentions for the world's children.

Many nations will now find it useful to develop a mechanism to serve as watchdog for children's rights and to monitor the evolving situation of their children against the international standards laid down in the Convention. The Norwegian Ombudsman for Children experience offers one possible approach. UNICEF therefore asked Målfrid Grude Flekkøy to write a critical evaluation of her experiences as the first - and until 1988 the only - Ombudsman for Children in the world. She began her work on this book in September 1989, having been named by UNICEF as the first Senior Fellow at our new International Child Development Centre in Florence, Italy. Since then she has also been in contact with child rights specialists from many countries where other models have been tried or where there is a strong interest in setting up such mechanisms, from the national to the municipal level, under public or private initiative. Her analysis also includes comparisons among various alternatives and tentative conclusions about what should be among the guiding principles for whichever mechanism is chosen as the watchdog for children.

There is no doubt that children and their families need strong and independent spokespersons. Nor is there any doubt that the future of our societies depends on the conditions we offer our children. Whatever path a nation chooses in seeking to ensure a future worthy of our children's trust, I am confident that *A Voice for Children* will become a useful tool to help guide the way.

James P. Grant
Executive Director
United Nations Children's Fund (UNICEF)

Introduction

The idea that children have rights of their own, rights which transcend the family setting, is an idea which is apparently simple, but is in reality complex. How can society fulfill its obligations towards the young, innocent and vulnerable, already defined as legal dependents, primarily protected by parents and other agents of adult authority? In this century there has been a growing recognition that children's special needs and life circumstances, because of that very same innocence and vulnerability, require a special - an extra - response from society, in law and in practice.

The new United Nations Convention on the Rights of the Child represents a turning point in the international movement on behalf of children's rights. During the drafting process, United Nations Secretary General Javier Perez de Cuellar stated: 'The way a society treats its children reflects not only its qualities of compassion and protective caring, but also its sense of justice, its commitment to the future and its urge to enhance the human condition for coming generations. This is as indisputably true of the community of nations as it is of nations individually'. Others have said that the Convention should be seen as 'the cornerstone of a new moral ethos for children'. But the importance of the Convention goes even further: representatives from countries in Africa, Asia, and Latin America have already pointed out that the Convention on the Rights of the Child transposes this moral ethos into an international, legal and binding instrument. This in turn makes it more feasible, even obligatory, to raise even highly sensitive issues publicly, for the attention of top-level officials and politicians. Work already started to map conditions for children as related to the Convention has uncovered problems hitherto unrecognized in the countries concerned. In other countries concerted efforts to make the Convention known and to put pressure on political bodies to ratify it have created new alliances between national and international non-governmental organisations. In some cases the Convention has been used to involve children and young people in decision-making processes, mostly on a local level. Involvement of children can also - as in the Brazilian Movement of Street Children - have an impact on the amendment of the national Constitution. The Convention can be a new basis for such efforts.

The Convention stipulates that Member States report to an International Expert Committee within two years of ratification, thereafter every five years. Each member State will therefore need a body to prepare these reports.

It is the responsibility of each national Executive to establish such a group. These reports will obviously reflect the views of that branch of government. But to get all the relevant information, to help prevent bias or neglect of significant problem areas or initiatives, many nations will find it expedient to put into place a mechanism whose specific task it is to act as watchdog for children's rights, and to monitor the situation of their children against the international criteria now laid down. These criteria provide a yardstick against which a country's performance on child-related issues can be measured and judged. The mechanism adopted to keep an eye on official monitoring, to raise relevant issues or propose improvements in national procedures, legislation or priorities could also become a forum for generalizing and synthesising information about conditions for children. In a majority of countries, responsibility for conditions with an impact on children is split between ministries and local administrative offices. With little contact between them, practically watertight barriers may exist between different sectors with responsibility for various aspects of children's lives and welfare. This is particularly evident in areas not readily recognised as 'child-relevant'. A mechanism responsible for presenting information on the overall situation and the feed-back dynamics that exist between various parts of society, determining conditions for children and their families, would be an improvement regardless of whether or not the country ratifies the Convention.

A different, but no less important aspect of this issue is that children themselves in many countries and connections lack a structure for their own complaints. A gradually increasing recognition of the importance of listening to children themselves is reflected in the Convention. Adults have trade unions, organisations, political parties and the mass media as possible recipients of grievances. Children turn to parents, teachers, friends - but if the adults are unwilling or unable to pursue the complaint on behalf of their children, children often lack a 'next level' of appeal, particularly one that also has connections with the decision-making bodies in society.

In 1981, the Norwegian Storting (Parliament) decided to deliver on society's obligations to Norwegian children in a way unique in the world. An Act was passed setting up an independent Commissioner for Children - an 'Ombudsman' for children - empowered to promote children's interests in any sphere of society where those interests were touched and where, otherwise, children's needs, children's rights and children's voices would not find a means of independent expression. This pioneer effort now offers eight years of practical experience, both in discovering what kind of issues are important to Norwegian children and parents, and in standing as public advocate for those and other issues.

The Ombudsman for Children provides the first and until 1988 the only national, statutory initiative specifically designed to give practical realisa-

tion to the promotion of children's rights. As other countries begin to take on board their new obligations under the new international Convention, many will be considering the structure and terms of reference for appropriate national entities to monitor fulfillment of those obligations. Each government will take many considerations into account in deciding how to take best advantage of the Convention to further the rights of children. In this context, the experiences of the Norwegian Ombudsman for Children might provide valuable insights into the scope of issues any such entity may expect to confront as well as provide ideas about types of procedures tried and the success or lack of success of different strategies.

This book describes the Norwegian experience in some detail, starting with the historical and cultural background for, and the process of, establishing the Office. Chapter Two introduces the first staff, the basic philosophy upon which the work started and how the practical framework around the office changed during the first years. It also describes the techniques used for public relations awareness, because the office would not be used unless it could become known to Norwegians in general and children in particular.

Chapter Three is a necessarily long one, dealing with the general rules for handling cases, the various types of complaints and how the Ombudsman worked with them. Taking into consideration that conditions and systems are different in other countries, the many examples may yet provide ideas for the many different ways of working with different kinds of problems. The material provides illustrations of how developmental psychology, sociology and law can be used in practical work to improve child policies and conditions for children and their families. It also illustrates the strategic thinking and planning of the staff, describing strategies which did not work out very well as well as the more successful ones. Finally, it shows the kinds of complaints and requests the children themselves presented, in some cases even what the young plaintiffs could do themselves.

Eight years later, what had changed? The Office, established in spite of strong opposition, had been under constant scrutiny. Had we been able to establish a public image and one with the 'profile for children' that we wanted? Did the children know about us in spite of the fact that complaints from children had gone down? What about the contacts we had tried to build up with partners on different levels, from Parliament down to the 'grassroots' level? And had our efforts resulted in any changes for children? These are some of the questions to which answers can be found in Chapter Four.

Given that the Office was effective, what were the main reasons for the results? If these had to do largely with the size of the Norwegian population for example, or the special problems dealt with, a 'watchdog' of this kind would only be feasible in a few countries. But if there were other important elements, these might be transferable to other countries, even if the model itself would not fit easily everywhere. Chapter Five therefore attempts to

analyse these important elements and then describes and compares alternative ways of working, leading to tentative conclusions about what makes such models work.

The final chapter takes a closer look at the Convention on the Rights of the Child and its importance both in countries that ratify and those that do not. In either case some kind of mechanism to monitor conditions for children is important. Based on conditions in the country, attitudes to children, the most pressing problems for children, and the need to listen to children, this chapter attempts a different type of analysis of the Ombudsman model. To simplify understanding of the Convention, UNICEF has described it as comprising four sets of rights: the rights to survival, the rights to protection, the rights to development and the rights to participation. In relation to these sets of rights, an Ombudsman-like office may be more important for the advocacy or protection of some rights in some countries, other rights in other countries. This analysis may be helpful in the choice or modification of a model suited to the country in question.

One question still remains: Norwegian children are obviously better off than children in many, many other countries. Why should they need an Ombudsman? And how can the experiences from Norway have any kind of relevance to other countries, especially in the Third World? The Convention points out correctly that children have problems and live under difficult circumstances all over the world. While children in other countries live under conditions unknown to Norwegian children, some problems are shared throughout the world, including the conspicuous neglect of children's needs and interests, even when it should not be difficult to take these into account or when there is no reason why children should not have the same rights as adults. Also, many of the problems encountered by Norwegian children are due to changes in society over which they - and their parents - have no control, changes which have not been considered in the planning process. Perhaps the consequences of these changes were not so easily anticipated. Now, however, they are evident. It is hoped other countries that have not yet experienced the complex problems now impinging on children in industrialised countries can learn from them and perhaps adopt mechanisms that might help prevent the same negative consequences for their own children and families.

I should not conclude the introduction without clarifying two points:

1. The examples given (all names are fictitious) are deliberately chosen from the complaints from children, even if the complaints from adults out-numbered them four to one. This has been done because the complaints and requests from children are in some respects more important than complaints from adults. They provide 'inside' information, illustrating what it is really like to be a child in Norway. Many of their complaints were different from and more wide-ranging than those

from adults who do not share their perspective nor recognise all situations which might create problems for children. Finally, the complaints from children demonstrate how aware children are and how clearly they can formulate their concerns. It was also important to note that children are effective in following up: given a place to go with their complaint and some minimal support and information, even young children can and will do a lot on their own behalf - and they call back to report on results, which adults rarely bother to do.

2. This book is a personal commentary, perhaps 'opinionated' at times. That, I feel, is how it should be. Needless to say, the views on Norway, on the Ombudsman experience and on other models for working for the rights of children are my own views, and do not necessarily represent the views of UNICEF or anyone else.

Chapter One

Culture, Context and the Ombudsman for Children

What is an Ombudsman?

The word 'ombudsman' is one of the very few Scandinavian words adopted by the English language. In some connections the term 'ombudsperson' is used - occasionally also 'ombud', although the latter is not recognised by English language specialists. 'Commissioner' has also been used, for example, in the Norwegian Ministry of Foreign Affairs translation of 'Barneombud' (Ombudsman / person for Children). 'Ombudsman' is used in this text, with no intended gender-specific connotations.[1] The French translation is 'Le Médiateur pour l'Enfance', the German is 'Der Kinderbeauftragte', and the Spanish 'el Defensor de la Infancia'. Each of these approximate translations reflect different aspects of the Ombudsman role, as well as different socio-legal, political, and administrative traditions of the various languages and the countries from which they originate.

Traditionally 'ombud' meant nearly the same as 'ambassador' or 'delegate', a messenger from, for example, the King to the people. In recent times the opposite is nearly always the case: it has become the word for a person or an office which deals with complaints from a defined, circumscribed group of people, speaks on behalf of that group and tries to improve conditions for individuals within the group as well as for the group in toto. Often in a position of confrontation with authorities, an Ombudsman serves as an independent, nonpartisan agent, spokesperson, arbitrator or referee, ensuring that the ministries and others fulfill legislative purpose by suggesting measures for improvement. An Ombudsman has the power to investigate, criticise and publicise, but not to reverse administrative action or revoke administrative decisions. The effectiveness of an Ombudsman, who has to be 'a strong figure . . . able to secure the attention of the authorities by sheer force of personality' (Melton 1991) may depend on the person having 'sufficient charisma, skill, and political stature and independence to carry out the office's mission' (op cit).

In Norway the term, used in a few other connections, is most commonly reserved for the national Ombudsmen (for Public Administration, Equal

Status for Women, Consumer Affairs, and for Children; a fifth is exclusively for the military services, and is therefore not 'public').

The public Ombudsman Offices were all established and funded by the Storting, their responsibilities described in the Acts for their respective Offices. Except by revoking or amending the Acts, the Storting cannot, however, instruct the Ombudsmen, who therefore have a rare independence in relation to administration - and the obligation to criticise even the Storting itself, if need be. The Ombudsman Offices are required to propose amendments of law, regulations, and procedures, seeking to improve the situation for the groups with which they are concerned. Except for the Ombudsman for Children, the Offices are responsible for specific provisions of Norwegian legislation. The Ombudsman Offices for Equal Status and for Consumer Affairs were established to defend - and handle complaints - in connection with actual legislation in those two areas. The Ombudsman for Children is, however, not responsible for any single law or sets of laws. There was, therefore, some discussion about whether or not the ombudsman term was appropriate for the new office when it was established. However, no better term was found. The Ombudsman for Children was established to 'promote the interests of children vis à vis public and private authorities and to follow up the development of conditions under which children grow up' (Act of the Commissioner for Children §3). The only prohibitions are handling individual conflicts within the family and issues which have been brought to court, until the court process has been completed (see Act and Instructions, Appendix One). The Ombudsman for Children must therefore keep an eye on all areas of society, give warning of developments harmful for children, and propose changes to improve their conditions. He (or she) must be alert to the consequences and implications for children in all parts of the Norwegian legislation and regulations. Since the Office has no decision-making power and no right to rescind the decisions of other authorities, information, advocacy, and well documented statements are its main weapons. The Office seeks to increase public knowledge and change the opinions and attitudes of others, in an effort to improve the situation of children.

A Brief Look at Norway

THE CHANGING NORWEGIAN SOCIETY

Norway is a spoon-shaped country, reaching up towards the North Pole. Forty per cent of the population (4.2 million) live in the 'bowl of the spoon', the rest mostly occupy the coastal areas. Warmed by the Gulf Stream, the climate is less harsh than in Greenland and in Alaska, on the same latitude.

In 1814, when Norway became independent from Denmark, the population was 900,000, 90% of whom lived in the rural areas, 80% of them making their living by farming and fishing. Since then Norway has moved towards

more urbanisation, centralisation, and industrialisation, but even now less than 25% of the population live in cities with more than 150,000 to 200,000 inhabitants (Oslo 470,000, Bergen 214,000, Trondheim 150,000).

Principles of equal rights, forerunners of the modern Ombudsmen, had won acclaim early. Women gained access to higher education in 1884. All men over 25 years old could vote after 1898, and women got the right to vote in local elections in 1910, in general elections in 1913.

Norway was neutral in World War I, but suffered invasion, occupation and damage in World War II. Norwegians resisted the invading forces in many ways, increasing the feelings of national independence and solidarity. The years following World War II were a period of reconstruction and rebuilding. After the hardships of the war, there was, in spite of the continuing difficulties, for example, in the paucity of basics (food rationing lasted until 1950), a unifying feeling of concerted effort amongst the adults (who had been children during the Depression of the 1930s). Children born between 1940 and 1945 grew to adulthood in the 1960s when there was a very marked change in the economy - the 'oil-boom'.

Since World War II the Labour Party (established about 100 years ago, reflecting the struggles for equal rights of the poor and the weak) has been and still is the largest political party, peaking in 1949 with 85 of the 150 seats in the Storting. In 1969 the Labour Party held 74 of 150 seats, and from 1973 to 1977 they held 62 (of 155), but a newer socialist party (SV) then won 16 seats; together the two had the majority. During this period the social welfare system was further developed with, for example, substantial increases in public child support and in the number of 'well-baby' clinics. Free (or nearly free) health services, old age pensions, and unemployment support (paid for through the tax system) were so firmly established in the culture that no large party would think of abolishing them completely, although the general tax level involved has been an important issue in recent elections.

The socialist block declined gradually so, since 1981, they have not had a joint majority (in the 1989 elections Labour won 63 of 165 seats, SV 17). The Liberal party declined gradually and lost its last seat in Parliament in 1985, while new parties were formed, giving a much wider spectrum of political divergence than before World War II. Apart from the period 1966-71 and 1981-86, and following elections in 1989, the Labour Party has appointed the Prime Minister and controlled the Council of State, but neither Labour nor the conservative coalition Councils of State have held an absolute majority, having to rely on other parties for support on various issues. Thus the political picture has been less stable than it might appear on the surface, less socialist than the party often controlling the ministries might indicate. With a shifting majority in the Storting, any Prime Minister must, needless to say, tailor proposals with the aim of gaining support as well as promoting the Prime Minister's party's own policy, leading to compromise solutions.

The 'oil-boom' led to enormous optimism, followed by realism, as oil prices went down. But the 'boom' gave rise to new industries, development of new technologies, and further development of the social welfare system. Unemployment has been low in Norway compared to other European countries, decreasing until 1986, with a slow increase in 1986-87, which increased more rapidly in 1988 and 1989. It is, however, still under 10%. Inflation was high until the late 1980s, increasing from between five and six per cent in 1978-79 to thirteen per cent in 1981 and 1982, and nine per cent in 1986 (*Government Finance Statistics Yearbook 1988*). In 1989 the average consumer price index was five per cent, following wage-freeze in labour negotiations in 1989. During these years there was, consequently, an increasing strain on family economy and an increase in families with two incomes. At the same time, the social welfare system did not have the emphasis on children seen in Sweden and Denmark, which also have recent histories of social democratic government, reflected, for example, in the child welfare systems and the schools. There are significant gaps on the 'cradle' end of the 'cradle-to-grave' system, as noted by non-Norwegian observers - lack, for example, of a maternal and child health division and other 'standard' offices focused on children's interests, an isolation of schools from other services and a lack of a comprehensive family social support system; with poor standing of Norwegian children on many variables relative to other Scandinavian countries (Melton 1989, personal communication). 'There is also a tradition of individualism and local control (unlike Sweden) that negates the strong-state, social welfare tradition to some extent'. (This may be one reason why Norway, in 1972, following a referendum to the people, did not join the European Common Market, while Denmark did.) The tradition of local control is reflected in the combination of a sparsely populated country and the high number of semi-independent municipalities. The country is divided into 20 counties and 450 municipalities. Only 25% of the municipalities have 10,000 or more inhabitants, most of them have around 5000, including approximately 1500 children. Sweden, with twice the population, has only 270 municipalities.

'Although a basic "safety net" of income-support and health programmes is universally available to Norwegian children, their welfare is poorer in many respects than that of children in other Nordic countries, with some gaps in services that are common even in countries with substantially less commitment to welfare state ideology . . .' (Melton op cit). One example is the lack of preschool education available to Norwegian children. France (according to the Vice-Minister of Education, speaking in Oslo in 1988) has 100% coverage for five-year-olds, 100% for four-year-olds, but 'only' 93% coverage for three-year-olds. School starts at age six in France. In Great Britain, school starts at age five to six; four- and five-year-olds attend nursery-schools if their parents wish. Sweden and Denmark in 1987 had 56%

and 55% coverage, respectively. In Norway 30% of all children under age seven can have any preschool opportunity, some of these in programmes two to three hours two to three days a week.

Looking more closely at the reasons for these differences, with child care as her focus, Leira (1989) in comparing the three countries says: 'Examining the policies concerning mothers' earning and caring commitments, I find the notion of a common Scandinavian "model" of reproduction policies is exaggerated. The results of policies, particularly as witnessed in Norway, also do not fit well with the "model" of the Scandinavian welfare states as institutional in their overall design . . . State-sponsored child care represents a substantially larger share of the total supply of services in Denmark and Sweden than in Norway. Moreover, the policies of the three countries appear to be grounded in different images of the mother-child relationship, and of the relation of family policy to the economy. In Denmark and Sweden the economy's need for labour was integrated into child policies to an extent not seen in Norway.' Leira goes on to point out that in Norway informal child-minding and social network-based arrangements are not included in legislation and are therefore outside the state's sphere of responsibility. The actual provision of day care by local authorities is not mandatory. 'The welfare state recruits women to the public sector labour market, but the problems of child care remain the responsibility of the families, particularly the mothers. . . . The welfare state is supposed to take care of those who cannot care for themselves, but care in itself is not esteemed' (op cit). A gap is thus created between employed women and private child minders because the latter cannot get the labour market entitlements of those employed by contract. The costs of informal and private arrangements are carried by the mothers. The child minders are a buffer zone for the state, in that they provide vitally necessary care at a very low cost. 'When employment policies and child care policies are assessed in context, I find the relationship to be one of ambivalence and contradictions as well as one of mutual dependence, which presents the Norwegian welfare state as Janus-faced in its approach to employed mothers' (op cit).

Other reports (eg Gullestad 1984) indicate that Norwegian families tend to separate 'family life and family matters' into a private domain, to maintain individualism by preserving a barrier between home and the social world outside, perhaps because family in many ways is touched - and may feel intruded upon - by 'the machinery of the public sector'.

The differences described by Leira concern preschool children, but the same kinds of pattern can be seen with regard to older children. School hours are short, and in Norway public care facilities for school-age children are practically non-existent, while in Denmark any child who needs looking after before or after school hours can attend a 'free-time home'. Norwegian

schools do not provide meals, while Swedish primary and secondary schools serve a hot meal in the middle of the day.

THE CHANGING NORWEGIAN FAMILY (1900-1960)

Changes in society reflect changes of attitudes, values, principles and ideas. But changes in societal structures, political diversification, and national economy are not the only noteworthy changes. The family, considered the nuclear unit of society, has also changed, partly causing, partly reflecting the developments in society.

The average Norwegian upper class couple 150 years ago had a marital age of 18 years for women, 31 for men (Sogner 1984). They had 11 children, three of whom died from diseases such as diphtheria, tuberculosis, measles before the age of five. Seven of their children got married in the 1860 and 1870s, producing 38 children. Twenty-eight of these children got married around the turn of the century, producing 76 children. The couple from around 1840 had 11 children. Their children had only five to six children each, and their grandchildren had an average of two to three children. From 1889 to 1892 the average female bore 4.4 children. The number of childless women was higher, so the average number of children in a family with children was seven to eight. Children born in 1920 had an average of 14 aunts and uncles, 28 counting spouses and 60-65 cousins (the birthrate in 1920 was 3.4). The increased use of methods of family planning was, according to Sogner (op cit), a consequence of decreased infant and child mortality, itself a consequence of better medical understanding and education and improved health services. The birthrate dropped to 1.9 in the 1930s, but rose to 2.7 between 1966 and 1970. The children born between 1950 and 1960 became the parents of children born between 1975 and 1985. The total number of Norwegian children born in 1982 was the same as in 1882, but the total population had doubled.

Descriptions of the family in the beginning of this century indicate that children in general saw little of their parents. Children from the tiny farms, or the families of fishermen and factory workers might, due to economic pressure, be sent to live and to work in other families; boys as apprentices or factory workers from the age of six to eight, girls in domestic service from the age of ten. Low and uncertain family income demanded that both parents work, often 14-16 hour days. The children of these classes were mostly brought up by each other and by the school (compulsory since 1739). But they were also, even in what little free time they had, under the watchful eye of employers and other adults, workers on the farms, craftsmen employed in the neighbourhoods, grandparents or other relatives, as well as older siblings.

In the 'upper classes' the children of the family were brought up by female servants, for example, the daughters from the farms and factories. The ladies

of the house were advised to teach basic manners to these girls 'who had no manners whatsoever, coming from amoral, filthy, and uneducated families' (Rudberg 1983, p. 173, my translation). The lady herself could not be expected to spend much time with her children, since 'there were so many other matters of greater concern that the lady, in spite of what she might wish, hardly would have the time to see to her children' (op cit). Governesses, nurses or other servants had the main responsibility for young children, with school as an additional factor after the age of seven.

In the 1930s several factors contributed to changing patterns in family life. Shorter working hours for employees, increase in wages, and increase in public support (child allowance) for children were part of the picture. Women entering the labour force from choice and as professionals were part of it too. But even then, if the mother of the better-off families (whose daughters would be the mothers of the 1960 and 1970s) had a part-time or full-time job, she would have at least one servant at home. In lower class families the dream of managing on one salary seemed to be within reach, becoming a real option in the 1950s. This was partly due to public housing policies, with relatively low cost housing, combined with low interest rates. An apartment cost approximately 25% of a total annual salary; the interest rate was six to seven per cent. With strong inflation and tax rules which allowed deduction for interest paid, the value of housing increased, but the costs remained low. The reduced taxes and value of the Crown meant that a large part of the housing costs were actually covered by public funds. Selling an apartment acquired in the 1950s to 1970s generally left the owners with quite a bonus (now an apartment costs the equivalent of one year's salary and the interest rates are nearly tripled).

CHANGING ATTITUDES TO CHILDREN

In the nineteenth century adults accepted the number of children they had as a blessing or the opposite. Children provided cheap labour and were important for the total income of the family, an insurance for the old age of parents, and were vehicles for the hopes and dreams of parents. By means of their offspring, properties could be combined and power increased (as in royal marriages, with engagements at the age of five to eight) or the socio-economic standard or prestige of a family could be improved. Some of these tendencies were still very much alive in the twentieth century.

In terms of bringing up children, the dominant trend was clearly authoritarian. Independence and autonomy were not encouraged, particularly in children under school age. Even in school absolute obedience was required, beating 'evil' impulses out of children accepted, and the aim was often to demand and promote adult behaviour as soon as possible, from the tender age of one or two years old. Boys were believed to have an inborn respect for physical authority, which was to be strengthened by use of

physical power, ie corporal punishment. Some experts in books and magazines even as late as the 1920s to 1930s, recommended such treatment for girls as well, for example to quench 'rebelliousness'. Parents who did not have books relied on advice about bringing up children given by their own parents, elder siblings and other adults in the vicinity. Some historians also note a certain degree of 'laissez-faire', particularly amongst 'lower class' parents who seemed to believe that fate alone would determine the future of the children. Then it did not really matter what parents did. Slaps and other forms of discipline were more an expression of irritation on the part of the adults than well-considered methods for bringing up children. Traditions and advice were freely available and accepted at least in certain situations, often ones that caused worry or irritation for the parents. If a young mother 50 years ago had problems breast-feeding, her 14 aunts, her mother, her mother-in-law, perhaps neighbours and servants, were ready to offer advice. The various pieces of advice might be contradictory, but the support system was evident. Tired of keeping baby clean, advice as to when toilet training could start would obviously be welcomed, particularly if this 'training' should start practically from birth.

Between 1930 and 1940 divergent psychological theories, particularly learning theory and psychoanalytic theory (both partly misunderstood), dominated publications and public debate. Though otherwise often conflicting, these theories had in common the view that children are not miniature adults, nor can adult behaviour be expected until maturity and learning (stressed differently by the theorists) enable the child to behave according to the standards of his or her society. Both schools, for different reasons, and at different periods, deplored the use of harsh punishment as acceptable for bringing about behavioural change. In Norway, the psychoanalytic/psychodynamic thinking seemed to be the stronger; habit formation and learning theory more in the background. The child was now seen as a person in his/her own right, demands and expectations to be tailored to the developmental level of the child. One misunderstanding was that setting limits, disciplining a young child, could harm the child for life. This misunderstanding was long lived, even surfacing in discussions following the prohibition of physical punishment in the schools in 1936 and again in 1987 - discussions caused by the proposal of a law prohibiting such punishment of children by their parents. When no limits were to be set, how could children be disciplined? And particularly without physical punishment? The main principles of adjusting limits and expectations to the child's age were, however, accepted. Since parents then rejected the methods and advice of their own parents, confusion was rampant on how to bring up children. The mass media (mainly printed material before the World War II, then radio, and later - to a very moderate degree - TV) became sources of information and advice.

The dream of homemaking as the mother's sole occupation was strongly supported by partial misunderstanding of new research on the effects on children of mother-child separation. Research carried out during and after World War II (by Anna Freud, Dorothy Burlingham, John Bowlby) was interpreted to indicate that any separation, whatever the age of the child, the length of separation, or the substitutes available to the child, would have disastrous effects on the development of the child. This view was strongly propagated by women and men who opposed female participation in the labour market or alternative methods of child care, whatever reason they had for their opposition. Some would say that the element worthy of interest here was the fact that the needs of the children were so strongly emphasised, while others, more sceptical, would point out that this emphasis was more of an excuse than a real reason for telling mothers to stay at home and care for their children.

More recent research clarified the issue, showing that the age of the child, the length of separation, and the substitute situation were of great importance. The ability of infants to attach themselves to more than one adult, provided the adults were caring and stable, was important for fathers as well as for alternative caregivers and mothers. The fact that the quality of parenting improved when parents (without familial networks) had someone with whom to share the responsibility and to give them some relief, was important, and the findings indicated that mothers, provided they had a minimum of time with their children, were better mothers if they were satisfied with their own life situation (regardless of whether they worked outside the home or not) relieved many parents of unnecessary guilt feelings. Similar research has not been carried out for fathers.

THE CHILD IN NORWEGIAN LEGISLATION

Recognition of children in Norwegian law goes back 700 years. The penal code of the thirteenth century states that children were not to be punished as harshly as adults. Adults might lose both hands if stealing, children 'only' one. Children (but only those born in wedlock) were recognised as heirs to property in the seventeenth century, and Church legislation (still valid from 1685) recognises children as legal subjects in connection with christening. In 1630 we find the first legislation indicating that public authority might supersede parental authority. Public guardians were appointed in the townships, responsible for taking over if parents, after due warning, did not get their children to school or in to useful occupation (school was not compulsory at that time). Vagrant children were not to be tolerated. It is questionable whether the provision was aimed at protecting the children themselves or society against the damage these children might cause. The institutions some of these children were sent to are described as a combination of penal

institution, labour training and 'education', with no clear description of what the 'education' consisted.

The first legislation directly concerned with improvement (religious and moral) for children (and society) was the Public School Act of 1739. The next important milestone was the Child Protection Act, proposed in 1898 and passed by Parliament in 1900. This was obviously an important step in the right direction, but it is not difficult now to see that it aimed at protecting society at least as much as children. Special institutions and reform schools might help some children, but were in any case highly effective in isolating these children from society in general. Conditions were so bad that the first public scandals hit the news in 1908 (Seip 1984). Rotten and mouldy mattresses, open and dirty urinals in the dormitories, wet and ragged blankets, a headmaster who beat the children with his cane regularly were part of the daily life of children placed in such institutions - in 1913-14 approximately 150 children.

A growing understanding of child development combined with new and more humane treatment and penalty principles in general led to reforms, to new legislation as well as to amendments of prevailing legislation, for example, the Child Protection Act, and the School Act.

Legislative changes may either reflect changes in understanding, changes of attitudes that have already taken place or they may be aimed at accelerating such change. Probably at least a degree of change must be under way to give sufficient understanding and acceptance for amendment proposals. Some changes, therefore, need a surprisingly long period of time before being reflected in law. As early as 1821, the Norwegian Parliament debated the question of 'legitimate' and 'illegitimate' children, ie children born in and out of wedlock. The different status of these two groups of children was gradually diminished, but amendments with the aim of erasing the main existing difference was not finally passed until 160 years later, in 1981, in the Parents and Children Act. Even then some distinctions remained, ie the child's visitation right following parental separation which still depended upon whether the parents had lived together after the birth of the child. (This was proposed and debated in 1979, but the distinction was upheld and was finally changed only in 1988.)

Current Norwegian legislation reflects a general acceptance of development as gradual, responsibility and rights to be attained at different stages in the progress from dependent baby to autonomous adult. This is reflected in, for example, a current Norwegian list of 25-30 different age limits (see Appendix Four). A more recent development is the tendency to increasingly recognise children as legal subjects, with their own legal rights. The School Act gives the child the right to an education, a right which in many other countries is given to the parents on behalf of the child. A more recent example is the Parents and Children Act. This Act no longer uses the term

'parental authority', but the term 'parental responsibility'. The parents have the responsibility to provide for the basic needs of the child and responsibilities which follow from the rights of the child. They are, for example, responsible for co-operating so that the child really can enjoy his or her visitation rights.

THE NORWEGIAN FAMILY OF THE 1980s and 1990s

The description of the Norwegian family of today demonstrates that the trends of the first half of this century have continued. Following a 'baby-boom' immediately after World War II, the birthrate has dropped steadily after 1970, but is expected to rise somewhat from 1987 into the 1990s, following fluctuations between 1966 and 1986.

In 1960, 61,880 children were born in Norway. They are now 29-30 years old, many of them parents of children born in the late 1980s. In 1980, the number of new-born had decreased to 51,000, rising in 1987 to 54,000. The birthrate was 1.7 in 1986.[2]

Children are a minority group in Norway. At the turn of the century children under 14 years constituted over one third of the total population. In 1970, there were four children (aged 0-14 years) per adult over the age of 70. In 1984, children under 14 accounted for one fifth of the total population, and there were two minors per elderly adult. In 2020 the proportions, given a stable birthrate, are expected to be one 'under 14' per elderly person, the percentage of children in the total population decreasing to 15%.

Contrary to popular beliefs, the most common Norwegian family does not consist of two adults and two children.[3] The number of families has increased by 14% from 1977 to 1987. In the total number of households[4] the number of families with children living at home is only 42% (35% in 1985). The number of children, however, has not increased, so the size of each family is decreasing. This is also reflected in the fact that, while 13.5% of all children in 1985 had at least one elder and one younger sibling, only 12% had 'both kinds' in 1988.[5]

The most *common* family with children in Norway has two children, 78% having more than one child. But families with more than two children are less common, the number of children in families with three or more children decreasing from 395,000 in 1985 to 360,000 in 1988.

Another trend is the increase in numbers of single parent families. The divorce rate has more than doubled from 1970 to 1987. Not all divorces involve children, at least not minors. The picture so far as the children is concerned is also complicated by two factors: increases in cohabitation and in remarriages. In Norwegian statistics unmarried mothers are called 'single mothers', regardless of whether they are living with the child's father or not. The number of children with the same address as both mother and father include 88% of all children under age two and 80% of the 14- to 17-year-olds.

Approximately 9000 children are involved in a divorce every year. This is not the total for all children who experience parental separation, as the splits in cohabiting, unmarried parents do not appear in the statistics. On the other hand, this does not necessarily mean that all these children have 'single parent' families for the rest of their lives. The number of remarriages has doubled in the past 15 years, and the number of new, stable but unmarried couples is unknown. Nor do we know the length of time of 'single' parenthood in each case or as an average. What we do know is that the number of statistically single parent families is rising, and that single mother families have a more difficult economy than any other type of family, in spite of public support, while couples with children under seven years of age are not much better off.[6]

Working Mothers

The difficult financial situation of families with children is one of the reasons for an increase, particularly during the past 20 years, in the number of mothers with jobs outside the home. Other reasons are connected with a better understanding of the effects on children and what conditions must be offered when both parents work, combined with the wish of many women to carry on their profession, not to lose out in competition with male colleagues etc. How many parents would prefer to stay at home to care for children, if they could afford it, we do not know. But we do know that an increasing number of mothers have an outside job (71% of all mothers with children under 16) and that the number holding full-time jobs is also going up.[7]

Single mothers are more frequently employed outside the home than married mothers and more often have full-time employment. Fathers in practically all cases have full-time jobs. The number of fathers of small children working two jobs, or overtime, is higher than for bachelors or fathers with older children. Fathers are not very available, particularly to small children. Children 0-15 years of age spend an average of 6.6 hours daily with their mothers, 4.1 hours with father. Most of the time spent with the father is also in the company of the mother. Boys spend somewhat more time with their fathers than girls. With increasing numbers of siblings, time with father decreases, time with mother increases. More children reduce the mother's working hours somewhat, but this leads to an increase in the father's working hours, to keep up total joint income. Father is less available (or willing) to take over from mother. Even in families where both parents have professional, high-status jobs, the mother has to put pressure on her mate to share responsibility for the children as well as the housework.

If the mother has an average, part-time job and the child is in first grade, the child has 16 'working' hours per week, the mother has 26 hours at work. The child is in school 185 days per year, the mother works 230 days. The

child has 12, the mother four weeks of holiday (not including Sundays or other national holidays) per year. School children have 50 days out of school more per year than working parents have holidays, not including summer, Christmas, Easter vacations or public holidays.

Changing Conditions Outside and in the Family

Families' patterns of living are also changing, in response to other developments of society. Moving has become more frequent, either from rural to urban or suburban areas or from one such area to another. Uprooting the family to go where the jobs are or to improve living conditions is not as common as in the USA, for example. But every third five-year-old has moved at least once. Both types of move imply moving away from relatives or friends. Moving to suburbia typically involves more use of a car; new housing developments have as many cars at least as there are families. Moving into a city also means more exposure to traffic. Traffic accidents with a lethal outcome occur more frequently on roads through more sparsely populated areas (higher speed, lower driver expectancy of children playing), but accidents leading to severe damage occur, not in the inner cities where speed is low and expectancy high, but in areas with many children and many cars, such as housing areas.

One of the changes in life style is closely connected with the mass media, in Norway as elsewhere. The developments have come mostly in the combined area of television and video. Norway has only one public television channel - the only one available with Norwegian language programmes. In the early 1980s television started at 6 pm and closed down at around 10-10.30 pm. There is no advertising on this channel. A minority of Norwegian families could also watch the two Swedish channels (and understand what was said). During the past eight years, the number who can watch Sweden 1 and 2 has increased. Also, cable TV and parabola antennas have made it possible for many families to watch TV around the clock, mostly in English, with advertisements. An increasing number of families also own more than one TV set - 'one for Mum, one for Dad, and one for me' - and families less frequently watch TV together. In addition, 30% of all families own a video-recorder and videos can be rented at petrol stations as well as in special stores. Adolescents are the most frequent users, often watching videos in situations where their parents are not present, for example at their own gatherings.

Exposure is low compared to many other countries, but increasing. Three-year-old children watch an average of one hour per day, six-year-olds 1.5 hours - if they can get only one programme. With parabola antennas or cable TV the number of hours doubles. Teenagers below the age of 16 are the most avid TV users, with the elderly matching them; both groups watch

television at least three to four hours per day, while the set may well be on six to eight hours (Waage 1988).

The Effect on Children and Families

Some of the changes in the last 75 to 100 years have obviously been beneficial. Infant mortality has dropped to eight per 1000 infants who die within the first year of life. This rate, while amongst the lowest in the world, is higher than in Japan, Sweden, Finland, and Iceland, indicating that more could be done to prevent these deaths. The Norwegian child population has been considered 100% covered by vaccination programmes, but recent signs indicate that coverage is no longer as good as it should be, partly due to increased mobility, partly to an added number of immigrants unfamiliar with the health system. Death from any one illness is less frequent than death caused by accidents. Norwegian children are generally healthy. In 1986, 223 children died before the age of 15, illness (eg meningitis, cancer) accounting for 126, accidents for 97 of these deaths. Traffic accidents killed 49 children, drowning 16, burns six, and suicide accounted for seven child deaths.

Norway has twice as many accidents among children as Sweden and a very high percentage occurs within and very near the child's home.[8]

Many parents are afraid - with good reason - to let their preschool children play outside unattended, and many are worried every day when older children are on their way to school, to friends, to free time activities, due to the hazards of traffic to pedestrians, particularly the young ones. Parents do not, however, worry so much about indoor accidents. They seem - in contrast to Swedish parents - to feel that 'accidents will happen' and that 'children must learn from experience'. Parents seem so afraid of overprotecting or making 'sissies' of their children that necessary protection may be inadequate (Lund 1989).

No child in Norway need starve, nor do medical or other expenses cause family catastrophe. Children go to school until they are 16 and are rarely obliged to earn their own living. They are the financial responsibility of their parents until the age of 18. But changes in the family (or in society as it affects the family) may lead to conditions which have negative consequences for healthy growth and development. The nuclear family rarely includes more than two generations. Parents no longer have a 'built-in' support system, so parental responsibility rests on parents alone more than ever before. New support systems can be difficult to establish, particularly if the family moves frequently. As one five-year-old said, 'Oh, we do have a home, but no place to put it'. The services meant to provide some compensation (well-baby clinics, preschools) do not fill the gap.

Single parenthood means strained economy, but also diminished opportunities for sharing the cares, worries - and joys - of parenthood. Many single parents establish new relationships. While stepparents were common

enough in the old days, for example when mothers died in childbirth, our modern stepchildren have stepparents as well as biological parents and often new sets of stepaunts, stepuncles and stepgrandparents as well. Thus the children may have a larger number of adults who care for them, but they may also be exposed to a greater number of brief relationships, with an increased number of separations caused by adults moving in and out of the family. If this happens, and particularly if there are no long-term, loving substitutes outside the immediate family, the child may not get the stable, long-term relationships needed to establish and develop his or her own ability to form close emotional ties - by many considered the foundation for cognitive as well as emotional learning. A longer life expectancy may mean that many teenagers and young adults still have grandparents, and even great-grandparents alive. These grandparents are not always easily available: they may live far away, and grandmothers as well as grandfathers are busy with full-time jobs and have only three weeks' summer holiday.

Most children have no more than one sibling. This has led to a drastic decrease in the child's opportunities to learn from the older siblings as models and for being a model and a caregiver in relationship to younger children. The opportunities for social learning are practically non-existent in sparsely populated areas, where neighbours with children of about the same age may be very far away. The lack of siblings increases the burden of parental responsibility. Rules are more readily accepted by a child who realises that the rules apply to a group, not only to the individual. Discipline can be harder to learn and internalise, particularly when the learning opportunities are weakened within the close emotional network of a family. Internalisation of morals and rules of behaviour are greatly facilitated by the reciprocal understanding and warmth of the family. Wanting to live up to the ideals of the 'beloved adults' and admired elder siblings is very motivating, particularly if parents are relatively consistent in their demands, and provided they live up to their own rules themselves. Also, learning to take care of, as well as care for, the younger and weaker can well be learned in relation to younger siblings.

There is an increasing awareness of the importance of learning experiences that children from the age of three to four and through the teenage period only can get in a peer group. Only in a group of equals does a child learn how a democracy functions, what the rules for making rules are, and which attitudes, skills, and behaviours are acceptable amongst equals. The peer group - in contrast to the family - is a group where belonging is not assured simply by membership. A child, amongst peers, learns when he (or she) is excluded and what the conditions are for joining again. He (or she) can also voluntarily leave the group, even 'for ever', with the family as a retreat. In the family, the child belongs, regardless of behaviour. The family offers opportunities for learning that a peer group cannot provide: how to solve

even longstanding conflicts in lasting relationships with people who care about the child regardless of what the child does, with people the child cannot get rid of or who rarely seriously want to get rid of him or her. Even when parents increasingly listen to their offspring and are prepared to let children participate in family decisions, a 'group' of one to two siblings, by sheer numbers, can never out vote two adults. In addition, the adults are bigger, stronger, and have more experience than the children, so their argumentation is often more convincing. Even larger groups of siblings can be overruled by the adults, which is often a good thing. The new element is that many parents are willing to let themselves be convinced by children, admit faults and defeat, and in a balanced situation of choice, might let the younger ones out vote the older ones, if indicated by the numbers.

As important is the fact that particularly combined with machinery and other time saving devices in a family in the industrialised countries, there are far fewer means by which a child can learn to take on responsibility and learn to care for others as well as for himself. Even parents who are aware of this, struggle to find tasks appropriate for four-, five-, or ten-year-olds. The household tasks available and suitable for young children are no longer evident. To create a feeling of being necessary to the functioning of this group can be very difficult. The most common task, keeping one's own room in order, is hardly convincing as 'necessary for the whole family'.

Some years ago (and in many cultures today), the 'moratorium' called adolescence lasted three to four years. It is a phase of trying out roles, testing values and 'trying on' opinions to find out which of them each person, individually and in groups, should adopt more permanently as adults, suited to the pattern of roles they envision for themselves in the adult world. Now this phase can last as long as pre-teen childhood does. The goal of becoming a true adult can become very unclear, because the time perspective involved is so long and uncertain. In addition, it is hard to tell, when the world is changing so fast, what the future will involve.

Young people in Norway are more or less dependent up to the age of 18 or even much longer. Legal parental responsibility ends at 18, but morally, parental responsibility for each child may last for many more years. Decreasing possibilities for learning to take on responsibility and the shortage of jobs for young people make the transition from child to adult last longer and it is less clearly defined. This situation can breed interpersonal as well as intrapersonal conflict, particularly if the young adult, still occupying the 'nursery', has his or her spouse, co-habitant or sweetheart move in too. With the rising cost of housing, this is not an uncommon situation, but one for which neither parents nor homes are prepared.

Children and young people, in order to be able to participate in a democratic and threatened society, need courage, optimism, and the will to try. They will have difficulties acquiring such abilities as adults if they are

denied the possibility of learning them when young. They need to learn how they can influence and have an impact on their small society if they are going to believe that it is possible to change a larger society when they grow up.

This learning is also necessary for children who are forced to assume adult responsibilities too early, children who must fend for themselves or support themselves - or their families - while still in their school age years. In Norway there is an increasing, but as yet small, number of adolescents (as young as 11 or 12) who run away from home, temporarily or more permanently, mostly during summer, when living on the streets is more attractive than it is during the winter. They may also occupy empty houses, and often, owing to drug abuse, drift into delinquency, for example, stealing or prostitution.

Increasing traffic, population density, increasing numbers of both parents working, and increasing distances between home and work, particularly when combined with a lack of consideration in urban and rural planning of the needs and behaviour of children may combine to destroy not only play and activity areas, but also learning opportunities, and reduce the time available for adults and children to spend together. In the past (and in other societies) children could acquire skills by watching and participating in adult employment. Children engaged in their own activities were aware of the presence of adults, and anticipated control even when adult control was unnecessary. In many modern housing developments, outdoor play may be safe during the day, because all cars leave the neighbourhood when the parents go to work. However, when the cars go, the adults also disappear, taking with them learning-by-imitating opportunities and adult supervision, contacts, and control. In other areas, traffic encroaches on play to a disastrous degree; children may not be allowed outside alone, and if they are, parents worry and playmates are hard to find. With older children parents worry not only about traffic hazards, but also about exposure to the drug scene. Parents of teenagers worry about abuse of tobacco and alcohol as well, and about the prevalence of teenage sex. Thus there is no doubt that to present day parents the total amount of worry and a feeling of helplessness in the face of it all has increased compared to previous generations.

Taking all this together, a picture of many, many lonesome children appears; children spending time alone at home, perhaps in the company of a television set or a video recorder, possibly choosing programmes which provide the only excitement in a dull or boring existence. Add to this the insecurity of many parents. They have learned not to be authoritarian, but not that they should not relinquish all authority. They find that the older generations' values and attitudes are under constant debate, and that they are being counteracted by the attitudes which children learn through soap operas and violent films, without a supportive network close by.

Many of these worries and problems confronting children and their parents could be counteracted, if responsible authorities were more willing to do so. Informing all levels of the importance of giving these problems a higher priority and putting into force necessary new measures, was one of the main objectives of the Norwegian Ombudsman for Children.

The Norwegian Services for Children and Parents

The principles of the Norwegian welfare system are simple: necessary services should be available to all - the more necessary, the more easily available - regardless of income. The cost should be covered mainly by public funding, through a personal income and property tax system which both diminishes financial differences caused by different income levels and 'spreads the expenses' over wage-earners' working years. Hardly anyone with a salary pays less than 20% tax, most pay 30-50%. This may seem high, but it covers health, school, and old age pensions, in addition to all public services.

Another principle is that most help should be provided for those that need it most, and thirdly, that the state should act preventively to meet the problems created by the social changes which the welfare state precipitates, or at least intervene with *post hoc* solutions to problems which emerge. The system does not always work according to its own principles. Particularly when local and national economic resources are diminishing, while public social expenditures increase, new means of funding are discussed, for example in the health sector, by partial payments for some health services, or by establishing private clinics (albeit supported through public funds) for patients able to pay. Nevertheless, services in Norway for children and families, while 'spotty', have in many community areas a level unknown in many other countries.

Health Services

Health services for children are available at several levels: on the municipal level Well Baby clinics offer prenatal care and post natal check-ups, (including vaccinations), monthly at first, later with six month intervals until age two, then at three and four years. The well-baby clinics may offer help on family problems; in a small number of municipalities, by having their own psychologist; in others, by establishing parent groups to discuss problems in general or for special problem areas, for example, children's sleeping problems. Parents can bring their children to public health centres, or to private doctors who receive a standard remuneration for consultations from the State Health Insurance System. Well Baby clinics and the service of municipal doctors are funded through the municipal budgets, and cost very little per consultation for the families. The health service on this level may refer to the social welfare system or the school psychology service, which

also has a responsibility for preschool children with special needs. Referrals may also be made to specialists or to hospitals, which are county-based and funded.

The elected community Board of Health is responsible for sanitary and hygiene conditions, food control, etc. The chief municipal MD is the Secretary of the Board of Health.

Social Welfare, Child Welfare, Child Protection

Each municipality has a public Social Welfare Office. It has a Health and Social Welfare Board, and may have a Child Welfare Board, if the latter is not incorporated in the former.[9] In 1988, about half the municipalities had separate Child Welfare Boards. The others had child welfare incorporated in the Health and Social Welfare Board's responsibility, based on the philosophy that child welfare is part of family welfare, so it is better to consider the family as an entity. The former, aware of experience in Sweden and Denmark, feared that under this system cases where the child is the primary concern might be given insufficient attention.

A Child Welfare Board must have at least five members, and an interest in children is required. According to the public 'Child Abuse' Committee, the Child Welfare Boards are low status political positions. Many members are not members of the municipal Council, although one member (often the chairperson) must also be a member of the Health and Social Welfare Board, but not therefore necessarily a member of the municipal Council.

The Board makes decisions regarding budgets, placements of children, and aid to families beyond the minimal requirements of law. When the Board has to make a decision regarding placement of a child outside the family, without the consent of the parents, a judge must supplement the Board, thus making the decision more like a court decision. Appeals, by the parents or by the Board, may be made to the county authorities. When the county supports the municipal decision in disagreement with the parents, the parents may appeal to the Ministry of Health and Social Affairs or take the case to court. The Board may also appeal to the Ministry, but cannot take the case to court. If the Ministry so wishes, the Ministry may have a decision tried by the Supreme Court.

The health services and social welfare system are administered on a day-to-day basis by the municipalities, while law and national regulations are administered by the Ministry of Health and Social Affairs.

In 1985, nine out of every 1000 Norwegian children were in some way clients of the child welfare system, the number increasing to 11 in 1988. In 1980, 3530 new cases were recorded; in 1985 the number of new cases was 5503, the total 13,309. The number for whom the child welfare system had taken over responsibility in 1985 was 6303 (Grinde 1989) which is lower, in absolute as well as relative numbers, than in any other Nordic country.

The number of people on social welfare increased from 65,023 in 1981 to 125,361 in 1987, reflecting an increase in the cost of housing, combined to some degree with an increase in unemployment.

Most of the 13,000 children received help while living at home. Responsibility for the child was taken over by the child welfare system for four children in every 1000 children on the national level, for ten per 1000 in Oslo (1986). Proposals for decisions to take responsibility from the parents *without parental consent* are made in 1.5% of all cases, four per cent of the cases in Oslo.

The Existing Preschool System

There are no mandatory municipal responsibilities in this area, with the exception that municipalities must have a programme for establishing and running nursery schools, kindergartens and other day care facilities. The municipalities are not, however, obliged to carry out these plans. Education is not compulsory until age seven. Legislation does, however, exist. The Nursery School and Kindergarten Act regulates requirements for most preschools. The Municipal Health Act can be applied to prevent physical neglect of children cared for in other people's private homes. Small children can play under supervision three to four hours during the day in public parks, the so-called 'Park-Aunt' system, until 1982 regulated by the Kindergarten Act.[10] The quality of private care and education of preschool children is not controlled by law, if no more than five children under three years or ten children over three years of age are in the group. If the group consists of six or more children under three or 11 or more children over three years of age, 20 hours or more per week, and the caregiver is paid, that person is required by law to get public approbation of the facilities and conditions. A trained preschool teacher is required for eight or more children below three years, 16 or more children three to seven years old.

Thirty-one per cent of all Norwegian children under seven years of age[11] have some kind of preschool opportunity, an increase from 8.6% in 1976, but low compared to our neighbours - 56% in Sweden, 55% in Denmark, and 41% in Finland. The numbers and hours of nursery schools and kindergartens vary from municipality to municipality. Fifty-five per cent of all nursery schools and kindergartens are open 30 hours per week or less, 11% of all children go to institutions that are open 41 hours per week or more. Very few therefore have hours covering the working hours of a mother or father in a full-time job.

Nursery schools and kindergartens may be public, semi-private or private. The municipality can have a 'Kindergarten Board' under either the social or the school administration. In any case the school system must cover the costs of special education provided for preschool children, whether this is provided in nursery schools, kindergartens or elsewhere.

Private child care is common, but hard to estimate. Many arrangements are private in the sense that the employee (caregiver) does not pay taxes, nor does she get labour market entitlements. As the number of working mothers has increased, the number of private caregivers has also increased. At some point there may well be a shortage of private caregivers, since so many women are employed elsewhere, as can be seen, for example, already in Oslo.

Supervision or care for school children, within or outside the school system, is not regulated, although free-time care is mentioned in the Child Welfare Act.[12] Three per cent of children aged seven to ten years old go to so-called 'free-time homes' or 'leisure-time institutions', led, for example, by a preschool teacher or recreation leader. Children in this age group go to school 16-20 hours per week.

Preschools and 'leisure-time institutions' are administrated nationally by the Ministry of Consumer Affairs and Government Administration.

The School System

Compulsory school starts in August of the year in which the child is seven years old. Children born after January 1 of the following year may apply to start early, while children born within the year may apply to postpone school entrance. The latter is rare after the 1979 revision of the School Act, which emphasises that all children, including slow developers or children with disabilities, should have an education suited to their abilities, in the ordinary schools, if at all possible.[13]

Elementary school has six grades. Starting with 16 hours per week, school hours increase yearly, to 30 in grade six. All children between the ages of 13 and 16 years old go to secondary school, either combined elementary/secondary schools or secondary schools for a larger district. In the final two years of compulsory school the students are given some choice of subjects, the variety of choice depending to some degree on the size of the school and the number of teachers. The majority of young people over 16 years have three years of further secondary school, either theoretical or vocational. Both kinds have a variety of choices amongst clusters of subjects, the more theoretical leading to entrance examinations for the university level. Students can switch from one type of school to the other if a place is available and the difference between first and second choice is not very large.

The number of children in school[14] is expected to drop by 20% in the next ten years. In elementary school, the average number of children per class in 1987 was. 17.9, in secondary school 22.7, in secondary vocational school 12-15, in secondary theoretical schools (university preparatory) 27-30 students. In elementary and secondary schools, 70% of the teachers and 10% of the principals were women, and one third of the teachers worked part-time.

Compulsory schools are administrated by the municipal school board, the non-compulsory secondary schools by county level school boards. On the national level both are administrated by the Ministry of Education. Post-secondary education (including teachers colleges) belongs under the Ministry of Cultural and Scientific Affairs.

The Existing System for Parental Rights and Family Problems

The most important existing legislation in this area is the Parents and Children Act, adopted in 1981. This Act describes the responsibilities of parents and the rights of parents and children, and does not contain the term 'parental authority'.

The Guardianship Act describes the financial relationship between parents and children, but also defines when and how the parents must act legally for their offspring, and who should act in their place if the parents are unsuited or unable to act as guardians.

Other legislation directly concerning parents and children includes the Adoption Act, the Artificial Insemination Act, in vitro insemination etc, the Act of Inheritance, and the legislation concerning parents in their joint roles of employees and parents, for example, which rights parents have for leave after the birth of a child or when a child is handicapped or ill.

In Norway, employed mothers (since May 1 1990) are entitled to 28 weeks leave with full salary after the birth of a child.[15] After the first six weeks, the father may take over, but the remuneration is still based on the mother's salary. It is also possible to spread the leave over a longer period, with 80-85% remuneration for 35 weeks. All employees have the right to an additional 52 weeks leave without pay. Breast-feeding mothers also have the right to a one hour reduced working day in order to be able to breast-feed, while mothers employed by municipalities or the State have the right to two hours reduction per day without loss of income.

Parents have the right to stay at home with a sick child up to ten days per year each; single parents have 20 days.[16] This does not depend on the number of children in the family, but on the child's age, lasting until the child is ten years old. Parents of handicapped or chronically ill children have extended rights, twice the number of days of ordinary parents.

Norwegian parents get a tax-free monthly allowance per child, the amount increasing per child for every child. The parents of two children receive more than twice as much as one child parents. Single parents receive an allowance for one child more than the actual number of children they have under the age of 16. Families also get tax benefits and deductions when they have children.

Divorce Procedures and Frequency

Parents have joint responsibility for their children, even when the parents do not live together, until something else is decided by the parents or the legal system. Joint *care*, with the child living with both parents, alternating periodically, is rare. So while responsibility is shared, the daily care rests with one parent, most frequently the mother. Mothers no longer have priority in custody cases, where the decision is based on 'the best interests of the child.'

Parents may agree on custody, visitation rights and child support. If they do not agree, they can ask the county authorities to arbitrate. If they do not agree to do this, the case goes to court. Ninety to ninety-five per cent of the cases are agreed by the parents with or without the help of the county. There is no special family court. Lower court decisions can be appealed. Professional opinions can be required by the lower court as well as the Supreme Court, or reports may be required, for example, from the local child welfare/health and social welfare committees.

Divorce has been increasingly frequent, as has the number of children born of unmarried parents. The number of divorces increased[17] by nearly 50% between 1980 and 1987. Nearly every fifth Norwegian child will experience parental divorce before the age of 18.

Twenty-five per cent of all children are born of unmarried parents, but many parents marry after the birth of their first child, usually before that child is two years old. Eighty-eight per cent of all two-year-olds live with both parents - 83% of *all* children live with both parents. The number of remarriages recorded in the marriage statistics has doubled during the past 20 years, so many children have single adult families for a few years, but not permanently.

The rights of the child following parental separation were established in the Parents and Children Act in 1981. The child - not the parents - has visitation rights, while the parents are responsible for cooperating so that visitation rights can be upheld. Until 1988 this right was not given to a child if the parents had not lived together after the birth of the child (see p. 133). Both parents are obliged to contribute to the support and education of the child until the child has completed 'ordinary education', usually at around age 18. Thus the parent with whom the child does not live usually pays child support, a minimal national level being set each year (approximately US $125 per month in 1989). If the parent does not pay, the other parent can receive this minimal amount from public sources, to be deducted from the other parent's salary or considered as a debt to the State. A single parent may also receive 'transitional benefits' while going to school or otherwise preparing for a job. Divorced parents are also entitled to a higher child allowance, higher tax deductions and may receive child care benefits (until the child is ten years old).

The implementation of legislation and rights described above are carried out by the Ministry of Social Affairs, the Ministry of Justice, the Ministry of Health and Labour, and the Ministry of Consumer Affairs and Government Administration.

Building and Planning, Urban and Rural Planning

Each municipality has a Municipal Building Board. The Building Board is a high-prestige committee and, therefore, mostly consists of male politicians with long experience. Representatives of the administration, including the health sector and the local veterinary (but not until recently the social welfare or education sector) are required to be present at Board meetings, but do not have the right to vote. The relevant legislation is the Building and Planning Act and a series of regulations, defining, for example, what is needed in buildings for fire prevention, the space needed between buildings, etc. The Building and Planning Act had no special requirements regarding the needs of children, nor was the presence of any representative of the interests of children required until 1990.

Other legislation of importance to children, but without special provisions are the Traffic Act, the standards for roads, safety requirements in cars etc.

The Ministry of Environment and the Ministry of Local Government and Labour share the responsibility on the national level for this sector.

Culture and Consumer

In the cultural arena, the virtual monopoly until very recently of the Norwegian Broadcasting Corporation (NRK) is a main factor. Monopoly does not mean censorship. Feelings about free speech are strong and the NRK is very aware of and sensitive to possible criticism on this point. Television was introduced in the 1960s, but even now there may be places where TV is not available or has a poor quality, due to the combination of mountains and long distances. Television is on the air six to ten hours per day, the daily programme starting at 5 pm or 6 pm, with no advertising. Children's TV was, until 1988, the first programme, starting at six pm. Now news and a rerun fill the hour between 5 and 6 pm. In many parts of Norway, there is Swedish television, with two channels, in addition to the Norwegian.

NRK has its own legislation. Films to be shown in public elsewhere are controlled and have age limits set by the State Film and Video Control. Videos to be shown in public may also be controlled by the State Film and Video Control, while videos for private consumption are not controlled, except with reference to the Penal Code, according to which pornography and extreme violence are illegal. NRK has its own rules for what can be broadcast; the legislation for films and videos does not apply to this institution.

Legislation such as the Product Control Act and consumer legislation also applies where children are concerned. Special protection is in part provided by the Guardianship Act, mostly aimed at protecting the financial interests of minors in general, but including one paragraph prohibiting minors from incurring debts. This means, for example, that a minor cannot sign a contract for mail order or installment purchases, but must also have the signature of a parent or guardian for the contract to be legally binding. Children over 15 years old may use money they have earned or small amounts they have received as gifts, but cannot freely use amounts they have inherited or been given for a special purpose, for example, education.

The Establishment of the Ombudsman for Children

The first suggestion for an Ombudsman for Children was published in the late 1960s, in a book by Anders Bratholm. He stated that children, as a weak group, might need a public defender to help them in conflicts with their parents. In 1974, a member of the Labour Party's Women Organisation, on the programme committee for this organisation, supported the idea of an Ombudsman for Children, inspired by the Swedish Ombudsman for Children, established by 'Rädda Barnen' (Swedish Save the Children Organisation).[18] The Labour Party Women's Organisation drafted a programme called 'The Position of the Child in Modern Society', which was adopted by their annual assembly early in 1975. It described the Ombudsman Office as 'one measure to defend the interests of children on their behalf by . . . (giving) . . . information about the child's legal position, promoting children's interests and rights, strengthening the child's position at home and in institutions and serving as a public office when child abuse was suspected . . .' (Wiig 1981, my translation).

Later in 1975, the Ministry of Justice appointed a Parents and Children Act committee to propose new legislation to replace the 1956 separate laws on legitimate and illegitimate children. In addition, this committee was to 'analyse whether or not there were reasons to establish a special body to solve conflicts between children and parents and between children and institution staff members, or if such conflicts should be solved by strengthening existing bodies (the municipal child welfare committees or the municipal public guardians) . . . If so, thought should be given to whether or not such a public body should also be responsible for promoting children's rights in a more general way . . .' (op cit, my translation). The committee's deliberations were published in 1977, with a unanimous proposal regarding the establishment of an Ombudsman for Children: the Ombudsman for Children should be public and national, with no formal authority, functioning as a lobbyist for children. With regard to private conflicts, the Ombudsman should have no other responsibility than that of referring the parties to existing counselling agencies. To give the Ombudsman authority

in such cases would mean establishing local offices or branches, in a field where such local authorities already existed.

The proposal regarding the Ombudsman was not given serious consideration in a Parliamentary Report on 'Conditions for Children' in 1978. The Ministry (of Consumer Affairs and Government Administration) was drafting a proposal for an Act,[19] which would be sent to a number of organisations for their opinions before a bill might be proposed to the Storting (Parliament).[20]

In 1979 (the International Year of the Child), the Ministry appointed a committee, consisting of representatives of six ministries, to prepare a survey of important suggestions concerning children presented in official reports and proposals during the past years. The group was also to evaluate the proposal for an Ombudsman for Children, in relation to existing institutions and their responsibilities and work for children. The committee agreed that the interests of children cross all kinds of administrative and other boundaries, and that it was important to strengthen the existing institutions and improve co-operation across boundaries. The group also agreed that there was a need for an autonomous, national body to promote the interests of children, perhaps influenced by the Committee for the International Year of the Child, which had supported the idea. However, the administrative group was divided on the question of how such an autonomous body should be organised and which responsibilities it should have. The members from the Ministries of Justice, Consumer Affairs and Government Administration, and Environment supported the proposal. These Ministries have 'children as a group' as a part of their respective areas of responsibility. The members from the Ministries of Health and Social Affairs, of Education, and of Local Government and Labour proposed an advisory Council for Children in addition to strengthening existing institutions like the Ombudsman for Public Administration and the 'State Child Welfare Council' (which, probably due to lack of a precise mandate, during 24 years of existence had held only two meetings). These Ministries have in common a responsibility for the individual child, as pupil, client or society member. The Committee's views, while not brought to a vote, were equally divided between two equal sub-groups.

The whole proposal was therefore in the balance. Both sub-groups found support for their views amongst the opinions presented by other organisations and ministerial departments. Typically the Women's Rights organisations supported the proposal, while organisations like the Norwegian Housewives Association and the Farmer's Wives Organisation, afraid that the Ombudsman might weaken the position of parents, opposed the idea.

The Council of State decided to carry on, despite the ambivalent opinions. The Bill on 'The Ombudsman for Children' was proposed officially by the Minister of Consumer Affairs and Government Administration on August

15, 1980, and sent via the Council of State to the Storting, to its Standing Committee on Social Affairs.

THE PARLIAMENTARY PROCESS

The Bill presented to the Storting was very similar to the proposal from the Parents and Children Act committee of 1977, with one important exception: *the proposal from 1977 regarding the Ombudsman's responsibility in relation to conflicts within the family had been omitted*. There was a general consensus that the Ombudsman should not interfere with internal family conflicts, but the views of the relationship between the Ombudsman and the family were divided. Some feared that the Ombudsman would threaten parental authority, that responsibility for children would thus be transferred from the parents to society in general. Leaving out the 'private arena', the majority felt that the Ombudsman could be a support for parents, helping to develop a society better for parents as well as for children. The 'private arena', while present in the preparatory work and prominent in the discussions, had now been omitted and the proposed responsibilities of the Ombudsman were confined to the public sectors only, although still including 'private institutions for children' (the Act was supplemented with Instructions, which clearly state that 'individual conflicts between parents and children or between parents' be turned down by the Office).

The Storting between 1977 and 1981 had 155 members (see p. 23). The Standing Committee on Social Affairs, composed with the same balance as the Storting between the parties, was divided in its views on the Bill. The minority was reluctant to expand bureaucracy, preferred to strengthen existing institutions and to revive the 'State Child Welfare Council', in addition to feeling that responsibility for children should not be transferred from the parents to society in general. The majority felt that children needed a spokesperson in relation to all decision-making bodies, someone to fight for their interests and promote their rights. They also felt that the Ombudsman could be a support for parents. But while stressing that good parents are the best supports children can have, parents alone cannot exert the pressure necessary to secure changes in the society in which they live (in 1980 only one out of every three families had children under the age of 16 years).

The debate in the Storting went along the same party lines and presented the same well-known arguments. The Act was finally adopted on February 26, 1981, with a five vote majority, and sanctioned by the King in March. Some parties used the party whip to ensure that their members voted according to party decision, a binding that was lamented later by individual members, who regretted having bent to party rule on the issue.

The discussions in the Standing Committee on Social Affairs, the public debate in the press and the votes in the Storting, make it perfectly clear that

Norway would not have established an Ombudsman for Children (at least not at that time) with a different political majority. However, in other countries, the arguments against the Ombudsman voiced by the more conservative group in Norway are *now* being used by the more radical groups opposing an Ombudsman, perhaps for other reasons as well. The reasons for opposition seem to be more or less independent of political 'colour', since they come up in different patterns in different countries. To summarise the arguments:

- the Ombudsman will be a threat to parental authority
- the Ombudsman might become an excuse for other groups and bodies responsible for children, to diminish or relinquish their responsibilities
- the funds allocated should rather be used to strengthen other existing efforts or services for children.

These arguments are heard no longer in Norway.

WHY AN OMBUDSMAN AND NOT SOMETHING ELSE IN NORWAY?

Norway is a small country, with a small population. That in itself is one reason why even a modest national office with such wide responsibilities is possible. Also, Norwegian society has long traditions in democracy; there is a deep-rooted belief in using legislation as a tool for changing attitudes towards children and changing ways of treating them. As a degree of change must be evident in the general population to make legislative changes acceptable, these changes also reflect parents' and other adults' changing knowledge and thinking about children. In addition, and since children are clearly a minority group in Norway, the Ombudsman tradition and the establishment and acceptance of other Ombudsman Offices to protect and promote the interests of other weak groups, undoubtedly cleared the way for an Ombudsman for Children.

The public, administrative and political debate preceding the adoption of the Ombudsman for Children Act clearly indicated that there was a general acceptance of the need to improve conditions for children. Children cannot vote, they have no influence on the political bodies which make the important decisions determining their conditions, they cannot use mass media or organisations to sway public opinion. Such facts are easy to understand, more difficult to accept. Even now politicians dislike being reminded of the fact that they are not always the ideal spokesmen for children. Actually, representation by parents with children under 16-18 years of age is probably low in the decision-making bodies; this particularly holds good with regards to the mothers. Even if women constitute over 30% of the elected politicians in Norway, it made headlines when female members of the Storting demanded that the Storting establish a staff nursery school for their children (why male representatives, many of whom had

small children over the years, had not done so long ago is a provocative question). Caring for children in addition to a full-time job takes so much time and energy that little is left for participating in political activities, even on a part-time basis. Research shows that women, in particular, to be active, must have a telephone available (at home or at work), the opportunity to read documents etc. during the day, and someone to take responsibility for the children during evenings. Even so, female politicians have higher absentee rates and a much higher turnover than male politicians (Skard 1979). This means that not only are the elderly able to vote for the candidates and the political parties that will defend their interests, but they themselves have the time and can be elected as municipal councillor or member of the Storting. Even those who are not elected by the elderly are often beyond the stage of daily worries about day care, hours alone after school, or concerns about the drug use, sexual activity, or unemployment of teenagers. For those who are at least 45 years old and looking ahead, the concerns for their old parents and their own old age will, regardless of political party membership, help swing the choices in favour of the problems of the older generations, away from the issues concerning children. Looking ahead 20-30 years, children (now 25% of the population) may then be only 15%. With the trend towards one child families, and hypothesising that all couples would have only one child, the maximum proportion of the population consisting of parents would then be 30%, or 36% of the *voting* population. There can be no doubt that parents and children need strong voices to speak on their behalf.

In the discussion of how to strengthen the interests of children, other alternatives were brought into the discussion. A State Council for Children was proposed, but was not perceived as having the necessary independence. The appointment of local ombudsmen was indirectly suggested, in connection with how to organise mediator service between parents and children. Even when that possible responsibility was dropped, the question of reaching children locally through branch offices did not gain significant support, partly because the expenses would be so much higher. (There is little tradition for volunteer work of this kind. Non-governmental organisations have a tradition administrating child care institutions and health care and have lately established local 'contact telephones' for children.)

Creating some kind of cooperative effort and responsibility on the part of non-governmental organisations was *not* part of the discussion about establishing an Ombudsman, probably for two reasons:

1) There were (and are) few organisations with the interests of children as their main objective. This may be important for the fact that

2) none of the organisations themselves suggested such a solution.

Another reason might be that the organisations preferred a more independent position, free to join in the fight on any issue, but not obliged to do so on any specific set of issues.

Notes

1. Capital letters (Barneombud, Ombud, Office) indicate the institution as such, while barneombud or ombud refer to the person, ie myself or my successor. The distinction may at times seem arbitrary, but will then reflect my personal opinion as to whether it was the office or the person who took action, stated an opinion or was criticised.

   The Norwegian words appear in the text, quoting other authors, who have, however, adopted the Norwegian usage of capitals/lower case for this distinction.

2. *Table 1.* Norwegian population

   Jan. 1, 1987: Total population 4,175,520
   Population 0 to 17 years 1,011,530

   Distribution:

Age	*Born*	*Boys*	*Girls*	*Total*	*% of pop*
0-6	1981-86	184,107	174,582	358,689	8.6 (6 cohorts)
7-12	1980-75	166,908	159,884	326,792	7.8 (6 cohorts)
13-15	1972-74	98,693	93,923	192,616	4.6 (3 cohorts)
					7.8 (5 cohorts)
16-17	1970-71	68,404	65,029	133,433	3.2 (2 cohorts)
	Total			1,011,530	24.2

3. *Table 2.* Types of families/households (January 1, 1987)

	Number	*%*
Single persons	756,880	41.3
Couples without children	310,812	17.0
Couples with unmarried children regardless of age	587,934	32.1
Cohabiting with children	26,767	1.5
Mother with child(ren)	125,055	6.8
Father with child(ren)	25,981	1.4
Total number of households	1,833,429	100.1

4. *Table 3.* Families with children under the age of 20

	No. families	*No. children*
Married couples with children:		
Parents with 1 child	165,509	165,509
Parents with 2 children	222,432	444,864
Parents with 3 children	80,791	242,373
Parents with 4 children	15,072	60,288
Parents with 5 or more children	3,654	20,000 (approx)

Single mothers		
with 1 child	74,259	74,259
with 2 children	30,128	60,256
with 3 or more children	8,359	30,000 (approx)
Single fathers		
with 1 child	12,077	12,077
with 2 children	4,885	9,770
with 3 or more children	1,137	4,000 (approx)

Single mothers include unmarried mothers living with the child's father. Number of children in each such family is unknown. The total number of such families is 26,767.

5. *Table 4.* Siblings

Only child	252,000
Children with one sibling	515,000
Children in families with 3 or more children	360,000

Approximately 130,000 children (12% of all children) have older *and* younger siblings. 45% of all children have either an older or a younger sibling. Twenty per cent are only children, but approximately half of them get a younger sibling in the following years.

6. *Table 5.* The economy of families

Family income seen in relation to number of persons in household and their ages.
Setting the average income-level per person to 1

Couples without children, the eldest 45-64 years old:	1.34
Couples with children over 20 years of age	1.24
Couples with children 7-19 years of age	1.00
Single persons over 65 years old	0.84
Couples with children under 7 years of age	0.82
Single mother with child(ren) 0-19 years old	0.72
Single father with child(ren) 0-19 years old	1.03

In practical terms this means that single-parent families use a larger percentage of their income for housing, have less technical equipment (eg freezers) and a majority of these families do not have a car, unlike 94% of other families with children.

7. *Table 6.* Working parents

	Total		*0-2 years*		*3-6 years*		*7-10 years*	
	1976	*1985*	*1976*	*1985*	*1976*	*1985*	*1976*	*1985*
	%	%	%	%	%	%	%	%
All mothers	53	71	40	55	48	70	64	75
w/1 child	60	75	50	70	55	75	68	74
w/2 children	51	70	35	55	49	68	61	78

In 1985 42% of the mothers worked 35 hours or more per week.

8. *Table 7.* Accidents

Accidents are the greatest health hazard to Norwegian children. The accident rates are twice as high in Norway as in Sweden, and Norway has more deaths by drowning than any other country in Europe. (These deaths are not due to our long coast, but often occur in water no more than a few inches deep.)

Age distribution:

0-3 years: Total number		*27,500*
Home, yard	80%	22,000
Road	7%	1,925
Preschool	4%	1,100
Other play areas	4%	1,100
Miscellaneous	5%	1,375
4-7 years: Total number		*28,750*
Home, yard	50%	14,375
Road, street	20%	5,750
Preschool, playground	15%	4,314
School, playground	5%	1,438
Sports, leisure, misc,	10%	2,875
8-14 years: Total number		*68,750*
Home, yard	20%	13,750
Road, street	20%	13,750
School, playground	25%	17,107
Sports	15%	10,312
Leisure activities	10%	6,875
Miscellaneous	10%	6,875

Since the 8-14 year-old group is twice as large as the other two, the actual rates for cohorts is approximately the same, while the patterns change from group to group.

9. In 1985, in debating the structure of the elected Board system in the municipalities, the Storting did not mention the child welfare boards, but passed a law making, amongst others, the child welfare boards optional. Until the middle of the 1980s a separate child welfare board was compulsory, and the standing Committee of Social Affairs in the Storting in 1983 unanimously expressed that this should continue. The Ministry of Health and Social Affairs

permitted 'experimentation', allowing municipalities to organise child welfare in other ways.

10. With the amendments in 1982, the park-aunt-system was removed, to be regulated by new rules. A proposal was circulated in 1986, but has later been shelved by the Ministry, which refers to the rules valid before 1982 when asked.

11. *Table 8.* Available nursery-school/kindergartens (1987)

Age-group	*Coverage*	*30 hours or more per week*
0-1	4%	89%
2-3	23%	66%
4-5	48%	47%
6-7	64%	35%

15% of all preschool children (350,000) have preschool hours corresponding to six hours per day, five days a week. The percentage of six-year-olds with a 'full day' is lower than it is for younger children, while the percentage of this age-group that has some kind of preschool opportunity is higher.

12. Of the 317,228 seven- to 12-year-olds (1987), 5,713 get this opportunity, while 50-70,000 children need daily out-of-school supervision, 140-170,000 need care regularly, but not every day.

13. Some of these children however, have their 'first school year' in kindergarten, which may cause problems when the child is 16. The question is financial and may be a definition-problem. The child has the right to nine years of 'school'. If the child has had one year in kindergarten, does the child then have the right to nine years *in school* or does the child forfeit the right eight years after starting first grade?

14. The total number of school-children was 593,767 in 1979, expected to decrease to 475,787 in year 2000. In 1987 505,942 pupils went to 3500 different schools, 2331 elementary grade-schools, 678 combined elementary and secondary schools and 491 schools for age 13-16. 172,195 16- to 19-year-olds were in the second phase of secondary school. 2078 children went to special education schools, mostly schools for children with very severe behaviour or learning problems. Eighty-seven such schools had a total of 510 classes, the majority of pupils 9-17 years of age. 11,639 children had a non-Norwegian language, approximately 36% received mother-tongue education in 1987 (54% in 1983).

15. Parental rights in the Nordic countries

The birth of a child

Length of leave	
Sweden	52 weeks
Finland	44 weeks
Denmark	28 weeks
Norway	28 weeks

Sweden: All mothers are guaranteed at least 90% of their salary for nine months + 60 S.Cr (approx. US $10) per day for an additional 90 days. The 360 days can be split up and used as whole days, half- or quarter days, but must be used before the child is four years old.

In 1988 a proposal was made to extend the 360 days to 520.

Fathers have the right to two weeks leave with full pay. Eighty-one per cent of the fathers use this opportunity.

Denmark: Four weeks leave before the birth, 24 weeks after the birth of the child. The employee is given compensation for her salary, but the amount varies according to the salary level. Roughly speaking high-income employees get 50-60%, low-income employees 90% of their salary. Danish mothers do not have the right to unpaid leave after the 28 weeks. Fathers have the right to two weeks leave, but no compensation.

16. ***When a child is sick***

Sweden: Parents have the right to paid leave (90% of their salary) 60 days per year per child, regardless of whether the parents are married or not. The right can be used when the child (up to the age of 12 or extended when the child is seriously ill or handicapped) is sick, when an employed child care person is sick, or when the child needs to go to a doctor or dentist. In 1985 Swedish women used 7.5 days per year, Swedish men 5.5 days per year this way.

Iceland, Denmark and Finland do not have legal rights for parents to care for sick children, but non-legal rights exist, as results of labour-union agreements.

17. The number of divorces rose from 6,634 in 1980 to 8,417 in 1987, the number of children involved from 7,700 to 8,907.

18. This office is still part of the 'Rädda Barnen' organisation in Sweden, but the Ombudsmen titles were changed to Research Coordinators in 1989. Being non-governmental and independent, it decides which issues are most important to work with. Periodically at least it functions as a crisis-telephone for children as well as a lobbyist. It plans to carry on even if an Ombudsman for Children like the Norwegian one is established, changing the name of its own service.

19. Actually, in spite of the interest of the Ministries (Justice and Consumer Affairs and Government Administration) neither took the time to draft the Ombudsman for Children Act themselves. This was consequently done by two of Professor Bratholm's students, an unprecedented procedure in Norwegian history.

20. Legislative amendments may be proposed by the Storting, the Council of State, a ministry or a person/organisation outside the administration. The ministry, if so directed by the Council of State, drafts a proposal with the reasons for it, which must be approved by the Council of State. Either before or after this approval, the ministry sends the draft proposal on a 'hearing'. A 'hearing' in the Norwegian sense is different from what it might be in many other countries. Before legislative amendments or changes of rules and regulations are proposed to the Storting, the ministry responsible sends the proposal to all other ministries which might be affected. When the proposal concerns local government/interests, it is also sent to all municipalities and/or counties. In addition the proposal might be sent to any number of organisations which might be concerned with the issue, for their opinions. Whether or not each chooses to give an opinion may depend on the issue. But the expectation is that the lead ministry will consider all opinions seriously. Relevant passages may be quoted in the final proposal and all the instances are at least listed. In this way Storting committees and members are given information about the opinions, disagreements and consensus of hearing instances. 'Hearings' are therefore not for the benefit of voters, nor are they public in terms of mass-media.

Chapter Two

Foundations

The Initial Phase

The Act establishing the Ombudsman for Children gave the Office a wide mandate, but no decisive power. To promote the interests of children in society and in relation to public and private authorities, with a responsibility for keeping an eye on the development of conditions for children, was a sweeping responsibility. More specifically the Ombudsman was legally responsible to act as a hearing instance (see note 20, p. 56), and so could not be left out on any issue concerning children. As the Ombudsman could also act on its own initiative, requests for proposals not originally submitted to the Office could not be denied. Furthermore, the Ombudsman should ensure that legislation relating to the protection of children's interests was observed, and propose measures to strengthen these interests or to solve or prevent conflicts between children and society. Finally, the Ombudsman should ensure that sufficient information concerning children's rights and measures required for children was given to the public and private sectors. There was no indication of how much or what kinds of information are 'sufficient', nor any indication of how the Ombudsman was to know of all information given by other sources. But this part of the Act at least gave the Office a right to spread its own opinions and statements without restrictions.

The term 'children' involved all persons up to the age of majority (18 years of age). Anyone could apply to the Ombudsman, and all applications had to be put into writing by the Office, if given orally. If an application concerned a specific child and did not come from the child itself, the Ombudsman must have the permission of the relevant child to handle the case. The Instructions say that 'when a child's age so indicates, the permission of the guardian shall also be obtained', but there is no indication of *when* age so indicates. This was therefore left to the discretion of the Ombudsman, who could deal with the case without permission 'if general considerations so indicated'. The most important restrictions for the Ombudsman was a legal obligation to reject applications concerning concrete, individual conflicts between a child and its guardians and between guardians (or parents) concerning conflicts within the family. Also the Ombudsman would not be free to handle cases already being handled by the courts,

but might criticise the grounds for court rulings, once the courts have completed their case. (To be sure that the courts actually had completed the case, any appeal to a higher level court must apparently also be completed or the deadline for such appeal must have run out.) The Ombudsman should refer to other Ombudsman Offices when the complaint mainly concerned matters under their respective jurisdictions.

THE FIRST OMBUDSMAN

The preparatory documents for the Office did not contain clear guidelines on the types of qualifications necessary, the only problem discussed being whether or not the ombudsman must have a legal background. The other ombudsmen, except the one for Equal Status for Women, were (and had always been) lawyers. With the wide mandate given, and because a lawyer might narrowly concentrate on children in relation to legislation, the conclusion was, however, that other professions might be as well or better equipped to promote the interests of children in relation to all areas of society.

The ombudsman position and the posts for other staff members were advertised in the ordinary way for civil servants, in all major newspapers. To secure a wide range of candidates, however, a number of people (including me) were asked to consider application. The 19 applicants had widely differing professions and experiences. When known, political leaning was non-Conservative, which was not unexpected since the office had been opposed by the right wing parties. My own background was as a preschool teacher and clinical psychologist. I had worked in nursery schools and kindergartens as a teacher. As a psychologist I had worked in institutions for the mentally retarded, for child and adolescent psychiatry (as a therapist for individual children and for families), as Chief Psychologist for the county services for mentally retarded, and I was - when the Ombudsman Office was established - psychologist consultant for preschool children in the municipality where I lived, working with physically handicapped as well as with children with learning and / or behaviour problems. During the previous ten years I had been active in local politics, a member of the Municipal Council and the Municipal Executive Board, during different phases a member of the School Board, Child Welfare Board, Kindergarten Board, Social Welfare Board, and I had three children of my own. Differentiated experience with a wide variety of children combined with political experience was probably a good combination, one that I found very useful during my terms in Office. The ministry administration[21] put a lawyer at the top of their proposal, but the Council of State appointed me ombudsman in late August 1981.

There were, of course, speculations about this being an appointment made on political grounds, but while the appointment was made by a political organ (the Council of State) there is no doubt in my mind that the

decision was based on a total evaluation of the candidates, in which professional status counted heavily.

After the Act was adopted, while the instructions were formulated, and prior to appointment, the decision to locate the Office in Oslo was made, in spite of the fact that working mainly by telephone and mail, the Office could have been located 'anywhere'. The main reason was that in Oslo the Office could have close contacts with the ministries and the central political administration.

THE OTHER STAFF-MEMBERS

The number of staff-members is proposed by the ministry, and decided by the Storting in connection with the annual budget, which is one chapter in the budget for the Ministry of Consumer Affairs and Government Administration. The original ministry proposal was for six people, the number to be 'rapidly expanded', but the final proposal was for four, fewer than in the other Ombudsman Offices, perhaps in order to 'sugar the pill' in face of the ambivalence about establishing the Office.

The wide scope of the Office evidently necessitated a range of different professions in the staff. The professional background of the ombudsman therefore would determine the choice of other staff members, one of whom must have a legal background. The second-in-command (Head of Division) in general is proposed by the Ombudsman and appointed by the Ministry (the first time the Ombudsman and Ministry staff interviewed together, but the Ministry made the proposal for the person to be appointed and for a person to serve in an interim period until the actual appointee could start). The 'second-in-command must be qualified to act as deputy ombudsman' (Instructions, §9). A female sociologist was appointed, with a degree in engineering preceding her sociology degree. To serve temporarily, a woman who had been employed in the Ombuds Office for Equal Status for Women in its initial phase was engaged. This turned out to be a wise choice, since her experience helped to establish office routines and informal guidelines which have turned out to need only slight modifications in the ensuing years. As the third staff member (appointed by the Ombudsman) a male jurist was appointed, professionally the best applicant. To balance genders as well as professions, it would have even been acceptable (according to appointment rules of the Equal Status Act) to appoint a male if he had been slightly less qualified than a female. But this was not necessary. The fourth person was the secretary (appointed by the Ombudsman), who would also be responsible for the switchboard, files, and all office technicalities.

THE ADVISORY PANEL

According to the Act, 'The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.' And the Instructions specify further: 'The Panel is appointed by the Council of State[22] for a period of four years. It consists of six members with personal proxies as well as the Commissioner[23] himself as the head of the Panel.'

The selection of members for the first Advisory Panel was of particular importance. This panel was not only to advise the new Ombudsman, but would also lend prestige to the Office. When asked by the Ministry, I did not want to suggest any one person as a member, but stressed a composition of the group to represent various political parties, age groups (including grandparents), regions of the country, ethnic groups, professions, and both sexes. The question of having children on the panel was difficult, particularly the process of selecting young people really representative of the child population. Also, all the children who used the office would, in a sense, be advisers, since they would be telling me which problems they considered important. At the time I was confident that at least half of the complaints would be from children, which turned out to be far too optimistic (see p. 75 and table 14, p. 151).

The panel was appointed by the new Council of State in November 1981. Amongst the members and proxies were Anders Bratholm (the 'father' of the idea, see p. 47), and two Storting members who had opposed the Office, one of whom had then been reelected to the Storting, providing a direct channel of communication to this body. While the first Panel did give the new Office moral support, the flip-side of the coin was that the members (including proxies) were prominent people, carrying considerable responsibility in their professions and in other social commitments. Thus, even though the staff was free to ask for advice or help when needed, the members were rarely free to comply, except when advice could be given quickly, for example, by telephone. The exception was an investigation carried out in two counties by a child psychologist (Magne Raundalen) and a pediatrician (Dag Nilsson) on the effects experienced by children who had to take long bus rides to school (see p. 102).

The Office and How It Worked

BASIC PHILOSOPHY - A THEORETICAL FRAMEWORK

My professional background and experience, with 'ordinary' children as well as with children with a wide variety of problems, was naturally the foundation for the way I wanted the Ombudsman to function. The developmental theories of Erik H. Erikson and J. Piaget were very important - Erikson particularly, because of his emphasis on the interrelationship between the child, the parents, the extended family, the society in which they

live and the cultural traditions they carry with them. Piaget's theories of moral and cognitive development complemented Erikson, adding dimensions where these are less explicit in Erikson's thinking. The developmental stages through which children pass, with differing aspects of physical (motor and perceptual), emotional, social and cognitive needs and levels of maturity, with developing capacities and vulnerabilities, became the framework for my thinking. In order to handle the various problems brought up, however, the therapeutic 'tool box' must contain a variety of different methods and approaches, and so mine contained practical educational tools, learning theory/behaviour modification, and family therapy methodologies, as well as the psychodynamic approaches of Erikson and to some degree Reich (as developed in Norway in the post-war years). Experience had taught me never to underestimate what a child can do, if the demands and instructions are suited to the developmental level of the child. I had learned about the accomplishments possible if such conditions were right, and how overwhelmingly important the first years can be, but also the possibility of later 'repair work'. My faith in parents as well as in children was constantly reaffirmed. So was the fact that children and parents most often form such a close unit that what is affecting one part of the dynamic system of the family will necessarily have repercussions on the others.

On the very first page of their book *'Before the Best Interests of the Child'* Goldstein, Freud and Solnit say: 'So long as the child is part of a viable family, his own interests are merged with those of the other members. Only after the family fails in its function should the child's interests become a matter for state intrusion' (1979). It has become increasingly obvious to me that this statement is only true so long as the adult family members have the child's interests in mind and at heart. This means that parents, if they have a choice, and when the needs of the child are at stake, are willing to give the child's needs priority over their own. Most parents are only too happy to do this, provided they know the consequences. But some are not. And some need information or other interventions, for example, counselling, to avoid the neglect or suffering of the child. Before - and in order to prevent - family failure, the child's interest should be a matter for public commitment, particularly for high risk families, but also in order to lessen the burdens for 'ordinary' parents. The goals and aims of public responsibility should be to maintain and protect those aspects of society which are valuable for children, and to protect the growing generation from the negative consequences of society development and change. Also, public intervention and planning are often necessary to compensate lost values which are beyond the means of individual families to repair or provide substitutes for. To establish play groups, nursery schools or kindergartens as compensation for the lack of siblings or playmates or to provide safe play opportunities must often be the

responsibility of organisations, community groups or municipal or state authorities.

With this conviction of the importance of children, and of creating good conditions for families, it was impossible for me to believe that anyone would deny children what they need, if there was sufficient knowledge of the needs of children and families and sufficient understanding of how deficient conditions would affect the growing generation. However, a very different aspect of my experience has taught me that many politicians just do not know enough about children, even if they have had children themselves, or have grandchildren. Their own childhoods are far away, particularly because in our society conditions change so quickly that memories of childhood are of little help in the efforts of today. Children of our generation have lost values which the older generation took and takes for granted, for example, safe places for play, peers to play with, mothers working at home. Children are exposed to influences and situations which people over 50 years of age could not be exposed to when they were less than ten years old, for example, television.

CHANGES IN THE PRACTICAL FRAMEWORK

In addition to the Act and Instructions, the practical framework around an office clearly sets limits to and influences its functions. With a mandate as wide as that of the Ombudsman it is always hard to tell how many staff-members are actually needed in order to do the work expected. It is also difficult to say, regardless of the size of the staff, whether it is in fact fulfilling its obligations. Needs tend to show up increasingly as an office of this kind grows, particularly as faith is built up that the office can be of real help. These are well-known experiences to anyone working in this kind of a setting. But a glance at the budgetary developments makes it clear that working conditions, particularly after the first three to four years, were increasingly difficult.

The Budget

While the staff remained unchanged in size, the budgetary situation deteriorated.[24] The average inflation between 1981 and 1986 was 11.5%. In 1982-83 the budget was increased in line with inflation. In 1984-86 budget increases were 3-5%. Increase was 9.5% from 1986 to 1987, but the addition was mainly caused by the fact that the Office was moved to a more expensive location, with the costs involved, as reflected in the lower increase the following year (7.5%).

In addition, the budget was gradually expected to cover expenses previously covered by other offices, for example, expenses for distribution of the annual reports and other publications. General budget decisions on a central level hit the Office with particular force, since it was so small. In

1986-87 all public offices were required to reduce salary expenses by 10%. In larger offices, with, for example, 30 staff members, very often a position would be vacant or an employee would have unpaid leave of absence. Three positions, differing as to which they were from time to time, would fill the requirement. In the Ombudsman Office, with four staff members, a 10% reduction was impossible. Salary increases were to be covered with no extra increase in the budget, if need be at the expense of other operations, in the case of the Ombudsman plans for up-dating printed material and for printing annual reports. Applications for extra funding of 'Facts about Children in Norway' did, however, get the necessary support in 1987 from the Ministry of Consumer Affairs and Government Administration, for an up-dated edition in 1988/89 from the Ministry of Health and Social Affairs. (both ministries acknowledged the usefulness of the publication, indicating that in future this should be a ministry, not an Ombudsman publication).

In early 1988 our problems were explained to the Minister and Under-Secretary, since it was obvious that the Ministry (of Consumer Affairs and Government Administration), particularly the department that handled the Ombudsman budget proposals, was not ready to support actively the needs of the Office. This was not due to ill will, but to the fact that this department - like all others - felt the crunch in their own daily lives, but not the effects in other offices. I was convinced that the Council of State (the 2nd Harlem Brundtland administration which had come into office in 1986), having established the Ombudsman Office in 1981, should or would feel a stronger obligation to support it than the previous Council of State. Our first meeting did not, however, lead to any positive results. But in May 1988 the Minister in question left her post, and her successor proposed a 20% increase for the fiscal year of 1989. The Storting increased the budget by 23% in November 1988,[25] and again, one year later, by 50 % for 1990. The political party in power may be important, but a personal interest certainly helps.

The lean years had taught a valuable lesson: getting results in working for children need not necessarily involve excessive cost. Even on a relatively small budget, a lot can be done, particularly with a dedicated staff.

The Staff

The number of staff members remained constant from 1981 to 1989. However, the jurist, with low salary compared to colleagues in other jobs, and with no opportunity for promotion or for acquiring the experience required to become a lawyer/barrister, has been replaced several times, in December 1984, August 1987, and in August 1988. The budget in 1983, 1984 and 1985 allowed for short-term engagements of additional legal or other help, partly because none of the permanent staff was ever absent because of illness, which would have created a need for substitutes.

The first Head of Division ('second-in-command') left the office to take up a research position in 1985. With the experience the office had at the time, the first priority for replacement was an economist. This did not reflect any degree of dissatisfaction with a sociologist, but the fact that cost-benefit analyses of child-directed programmes and efforts seemed to be of extreme importance. To convince politicians of the advantages of investing in childhood, it seemed necessary to be able to provide hard data, preferably in 'dollars and cents', to demonstrate not only the cost of such programmes, but - even more important - the long term cost involved in NOT providing for children. The economist who applied, and was offered the job, however declined, so the replacement was again a sociologist.[26] The third alternative considered was a public relations expert. At that time, the press coverage was increasing and I still hoped that the national radio and television corporation would gradually agree to use more time on children's issues and on the cases of the Office. Besides, with the strong need felt for child-professional backgrounds for our statements, I was reluctant to use an entire staff position for public relations.

The first term of the first ombudsman ended in September 1985. There was no longer any talk of abolishing the Office. Some indication of a wish to evaluate the Act and Instructions was given, and there were some mixed feelings about reappointment (see p. 174). I was, however, reappointed for a second (and final) four year term, starting September 1985.

REACHING OUT

With the obligations taken on, it was obvious that the Office, to be able to function at all, must become well-known to individuals as well as to organisations and administration. The mass media would obviously be important, but not necessarily the only channel for information to children and adults. The discussion about establishing the Ombudsman for Children had been a topic in the mass media, particularly the press. The formal appointment of the first ombudsman also received wide attention, in national and international press coverage.

The Press

Following the initial interest created by the new Office, there was a comparative lull in press coverage, in part due to a decision made by the Ombudsman not to present any issue until the Office was certain that the first issue would be a significant one. This turned out to be the issue of how video violence and video pornography might affect children, started by two telephone calls in August 1981, asking whether forcing children to watch such films might be termed 'abuse'. This item hit the press, with 'war-size' headlines, in December 1981, when many people were considering buying a video for Christmas. This was before video became *common*, but started

the whole public discussion about measures to protect children when necessary, and alerting parents to the possible hazards of letting their children watch video without supervision (see p. 113 and 118).

In the following years the media, particularly the newspapers, gradually paid more attention to the ideas and issues of the Ombudsman office. When the Ombudsman gave an opinion to a municipal authority, a copy was sent to the local press. Local political leaders had no obligation to present such statements to (for example) the Municipal Council. To ensure that the information really reached the politicians as well as the general public, the statements were therefore sent to the press, usually a day or two after mailing them to, for example, the mayor of the municipality involved. This also made it more difficult for the leading politicians to withhold the statements.

More general press statements were issued on important hearing statements, sometimes through the Ministry Press Relations Office.[27] The Ombudsman Office also gradually developed its own routines and contacts with regular reporters. Recording the time spent on the press at various periods indicated that the ombudsman spent half an hour per day speaking to reporters, but this of course varied, according to the issues interesting to the press, and also seasonally. Summer, a quiet period on many fronts, was the season when reporters (having tried everything else first?) would have an increasing interest in matters concerning children.

One restriction on press relations was the lack of 'know how' in the staff, which was complicated also by ethics. While the press often wanted names, 'sob stories' or sensations, the Ombudsman, compelled to protect children as sources, would not comply. Also, the Ombudsman did not want to give 'headline' statements, which tend to present an over-simplified picture of a complex story. Particularly in the starting period, it was important to establish the Ombudsman as a serious, professionally sound institution; it would go against the future of the Office to give in to such demands. The result was, of course, that a number of less controversial issues, not considered 'news-worthy', did not appear in the press.

Television and Radio

In 1981 the Norwegian Radio and Television Corporation (NRK), in addition to its news broadcasts, introduced the Ombudsman in programmes both for older and younger children. In a national, televised fund-raising action for children, the ombudsman was also interviewed by a much loved Norwegian puppet.

During the following years repeated attempts were made to have the Ombudsman 're-introduced' on television, but to no avail. The department for children and youth programmes did express understanding, but did not find a 'story' in the proposals. Also, their budget is more limited in relation to the time they must fill than are other programme departments. In this

situation it was a disadvantage to have a television monopoly, because there were no other stations to turn to. Foreign television companies, interested in producing programmes on the Ombudsman for their own use, would hardly be interested in making such programmes in Norwegian, for Norwegian children. Without advertisements, there was no way to buy time for TV spots. The Ombudsman office did not have the public relations experience, the budget nor the time needed to produce TV spots on its own, in order to offer 'ready made' products. So the majority of TV appearances were incidental, on the news, when the Ombudsman had made a statement worth broadcasting.[28]

Publications

Booklets

It was realised from the very beginning that presentations through the mass media, if not repeated, would at best have a short-term effect on the young population. While adults are reminded of the existence of the Office by hearing of opinions stated or referred to in the press, possibly with a photograph, children, who do not read newspapers in the same way, need a more substantial source of information. A booklet (made in cartoon-style) was prepared, with language consultation by a nine-year-old, for children under the age of eight; a pamphlet was also prepared for the older age groups. These were circulated, as appropriate, to all nursery schools and kindergartens, to schools, libraries, social welfare offices, municipal and county authorities, at regular intervals so long as they were up-to-date. A sticker was offered - so popular that children would call to ask if they could 'join the club' to get one.

'Rights and responsibilities of children' is a one page pamphlet, suggested by a 14-year-old, who wrote:' I do not have any real problems right now, but could you send me a list of the rights of children at different ages, so I have it when I need it.' The list of age limits was compiled and widely distributed, and the demands for more swamped the office (translation, see p. 249).

Annual reports

The Ombudsman was, according to the Instructions, obliged to present an annual report to the Ministry of Consumer Affairs and Government Administration, available to the public in general. These annual reports were the only publications the budget MUST allow for. 1981 was such a brief 'year' that only a very small booklet was prepared. In the following years the reports (after 1982) included statistical material as well as descriptions of the work being done. Since this report was the only annual and regular publication, the reports for 1983-86 also contained a chapter on issues of general importance. *Good conditions for children at various developmental stages* (1983) summarised the basic emotional, social, and cognitive needs of children as

they grow and pointed to the practical requirements for meeting these needs, for example, the need for stable long term relationships with adults, the need for space to play, the need for peers, for stimulation and learning opportunities suited to age. This summary, as a conclusion, also pointed to the lack of public services to provide for needs that parents cannot meet alone, with suggestions on how to improve the situation, including the first proposal for umbrella legislation to set a minimum standard for requirements for children.

Improving conditions for children - why is it so difficult? (1984) discussed the child in Norwegian legislation and the problems of Norwegian children, with the changes in society which have not yet led to changes in the services for children and their families. Since Norway had such a long tradition of using legislation to promote changes in attitudes as well as in society, the Ombudsman argued that the rights of children must be strengthened and the need to consider the interests of children made explicit in rules and regulations. Also, responsibility for children in the administration should be clarified and strengthened. Finally, the Ombudsman pointed out that expenses for programmes for children can be very good investments, financially as well as for the children themselves.

Private and public responsibility for children - what is the distribution and does it work? (1985) discussed parental and public responsibility for children, pointing out how the changes in society must lead to a redistribution of responsibility, and to ways and means of helping parents function better as parents as well as improving conditions for children in general. In this report the Ombudsman again proposed umbrella legislation, discussing other alternative ways of formulating such a 'Conditions for Children' code.

The annual report might also contain reports of larger meetings held by the Ombudsman. *Planning for children in housing areas* (1986) brought together representatives of ministries, planning offices, non-governmental organisations, and experts from Sweden and Norway to discuss *Children and cars in housing areas*, experiences and views on the combination of traffic and children, including research on the experiences of parents (mothers) in attempts to safeguard their children.

In 1986 the Ombudsman had also organised a public hearing on *Vulnerable children, what has been done and what should be done*, the report presented in the annual report. The hearing was public, focussing mainly on children under 12 years of age, and was opened by the President of the Storting. Professionals from various fields reported on conditions in their field, under such headings as *Children need parents, Children need physical safety in and outside their homes, Children need adult time, Children need spokespersons* and *Do we need better legislation for children?*.

The reports of 1987 and 1988 did not contain such material, being as brief and inexpensive as possible. As in previous years the report was sent to all

members of the Storting, to ministries, municipalities, counties, schools, libraries, etc. Annual reports can make heavy reading, particularly for the group most wanted as readers. A special abridged version for children, some 8-10 pages, was prepared every year and sent to schools, nursery schools etc.

Facts about children in Norway (1987, revised 1988) was prepared and published after the hearing on vulnerable children, for which a preliminary survey of available statistics was prepared. Statistics on children are not good enough. But it was also evident that what was prepared was not readily available. Different institutions prepared whatever they might need or be asked for, so it was difficult to know where to get such information. The first edition was therefore simply a compilation of available statistical data, with some of the Ombudsman's comments. The demand was overwhelming, and from many sides, particularly from local authorities. The first printing, planned to last for two to three years, was 'sold out' in the course of nine months (being produced by a state office, Ombudsman publications are free; there is no place for income in the financial reports). A revised, expanded edition was published in 1988, funded by the Ministry of Health and Social Affairs. An English translation (mimeographed) appeared in 1989.

Telephone

In order to be more readily available to children all over the country, attempts were made to get a free telephone line and to have the telephone number included in every directory in the country. These efforts did not succeed in 1981 or 1982, prohibitive expense and red tape being given as the reasons. In particular the telephone company was afraid of the possible consequences, that others might want to follow the example set by the Office. However, a special weekly telephone period for children was widely advertised, so that children would at least not have to compete with adults in reaching the ombudsman. The most important effect of this measure was, however, the emphasis thus communicated on the importance of contacts with the younger generation. In practical terms, the indicated hours soon became a quiet working period, because adults did not call at that time - but neither did the children. They called whenever the need arose, even at midnight, regardless of the time.

In 1985 a new attempt was made to get at least the office number into all directories. Children look in their own directory, not the Oslo one, for the Ombudsman number. The response was surprising: 'of course! and at no cost.' Since 1986, as new directories appear (not all are reprinted every year) they all have the number of the Ombudsman listed on one of the first pages, in the list of 'Important numbers' (such as local the Children's Contact Telephone, the taxi cabs, the weather forecast, and the snow conditions for skiing). The free line was established in January 1990.

Lectures, public appearances

Requests for lectures, participation in seminars, giving talks at Universities etc. were often directed to me personally. If I declined, suggestions of other possible speakers were given, including other members of the staff. The latter was rarely accepted; people wanted the ombudsman, and would rather wait than accept a substitute, even when other staff members were better qualified to speak on the subject in question (the 'zoo effect': the curiosity of an audience to see a rare new animal).

With so many requests, guidelines became important. The 'first come, first served' principle would not suffice. The Office was a national office, located in Oslo. A relatively high number of the complaints and requests came from Oslo and the surrounding areas, even taking into consideration the population density of this area compared to other parts of the country. This pattern was well known in other Oslo-located national offices also, but it seemed important to try to counteract this tendency by giving other parts of the country priority in speaking engagements and visits. For example, meetings of parents in a school or preschool were hardly ever accepted in the Oslo area, but might well be accepted in Northern Norway. Also, visits provided opportunities to see conditions for children all over Norway, speak to local politicians, and establish contacts with children through local radio stations and newspapers (there were no local TV stations in Norway at that time).[29]

Another guideline was giving priority to meetings, organisations, and institutions with participants or students who came from, or would go to, many parts of the country, preferably representing a variety of professions. As ombudsman I gave 50 to 60 lectures or talks each year, and visited all counties and 150 (out of 450) municipalities at least once, some many times, during the years 1981-89. While the office budget could not cover travel expenses many of these visits were made possible by institutions that would pay such expenses, particularly since no fee was accepted.

The topics asked for during the first year or two mainly concerned information about the Office, its purpose and ways of working. Later *The changing situation for children in Norway, TV and video, the effects on children, Children and physical planning, Why preschools - new needs and requirements, The needs and rights of children in our future society* were popular demands.

Not included in the numbers above are contacts with the mass media, particularly the press (see above, p. 64).

Notes

21. The Act states that 'The King shall appoint a Commissioner for Children for a period of four years.' Applications are studied by the Ministry department concerned, and a proposal is submitted to the political leadership of the ministry. The minister may agree or disagree, may send it back for further consideration, and may present this (or his/her own) proposal to the Council of State. If the Council of State disagrees with minister, the proposal may be

sent back for reconsideration. When the Council supports the proposal, it is formally accepted by the Council when the King is present. Only twice in this century has an appointment been made against the opinion of the minister concerned.

22. The apparent discrepancy between the Act and the Instructions is only a difference in formality. Legislation uses 'the King', but in practical terms this means 'the Council of State (with the King present)'.

23. When quoting from the Act or Instructions, the term 'Commissioner' is used, as it is in the Ministry of Foreign Affairs' translation of these documents.

24. *Table 9.* Budget developments 1982-1990.

				inflation	*% increase*
1982:	N.cr.1,113,280	US$ 172,000	(11)	12.9	
1983:	N.cr.1,272,000	US$ 195,600	(18)	10.7	14.0
1984:	1,360,000	US$ 209,000	(20)	12.6	6.8
1985:	1,434,000	US$ 220,600	(21)	8.3	5.4
1986:	1,482,000	US$ 228,000	(21)	11.0	3.3
1987:	1,623,000	US$ 249,692	(22)	8.5	9.5
1988:	1,745,000	US$ 268,461	(24)	5.0	7.5
1989:	2,145,000	US$ 330,000	(30)	4.5	23.0
1990:	3,200,000	US$ 490,000	(45)		50.0

Numbers in ( ) indicate cents per child per year.

25. Melton describes the situation before 1988 as follows: 'Whatever the appearance, one could reasonably argue that the Storting has chosen to support a weak barneombud' (in press, ms.p. 26)

26. The budget no longer permitted the use of consultants, so instead of trying to provide cost-benefit analyses ourselves, the office continued to try to convince research institutions of this need. The need was acknowledged, but the difficulty of the task, including longitudinal studies, has caused all of them to tackle other problems.

27. The Office was in principle autonomous in relation to all the ministries. However, it was understood that the Ombudsman could use the services of the Ministry of Consumer Affairs and Government Administration, and could also use other services. The Ministry had no obligation to help, but did so when able.

28. The necessity in this field was clearly demonstrated in 1989, when a new ombudsman was appointed who is well-known as a TV personality, having produced a number of freelance TV productions, had the facilities and the 'know how' and very quickly was given five minutes every two weeks for his own nationally televised 'Ombudsman for Children' programme.

29. *Table 10.* Geographical distribution of complaints (percentages)

	1983	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*	*Pop.*
Oslo	33.9	32.6	33.0	33.1	27.9	31.6	35.1	10.8
Akershus	17.6	15.3	14.0	13.0	13.7	11.6	11.6	9.5
Other SE	17.0	19.8	20.0	17.8	18.0	19.4	17.3	28.3
Southern Norway	3.4	3.5	2.0	3.2	2.9	3.0	3.5	5.6
Western Norway	15.6	16.4	15.0	16.4	18.9	17.7	16.7	25.6
Mid-counties	5.1	4.2	4.0	3.7	6.3	5.5	4.8	9.0
North counties	7.6	7.8	12.0	12.4	11.9	10.9	10.4	11.2
Other		0.1	0.2	0.4	0.4	0.4	0.5	-

Other: Norwegians living abroad.

For approximately 10% of all cases every year the plaintiff's address is unknown. The percentages therefore reflect the cases where address is known.

Chapter Three

Cases and complaints

The Case Load

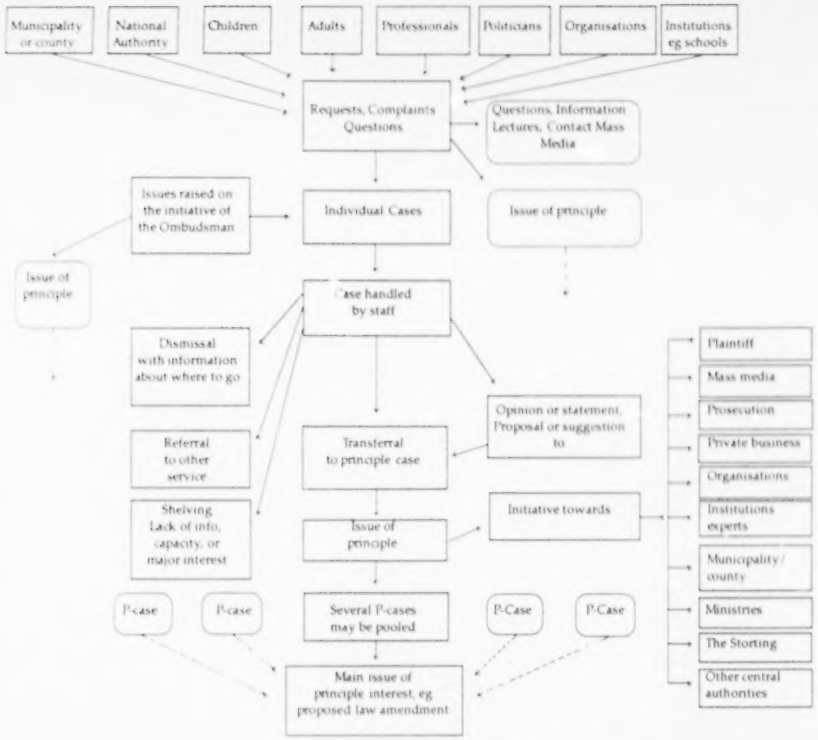
Certain types of complaints must, according to the Act and Instructions, be turned down or referred, others shelved. Apart from these, the Ombudsman is free to handle cases in any way deemed most efficient. During the initial period, daily staff meetings were used to discuss every case in detail, to examine case histories and to determine how to proceed. It was also necessary to clarify precisely which cases were actually (but not always obviously) a conflict between children and parents (or between parents) and which should be referred to other Ombudsmen or other services. The jurist had therefore to be aware of the legal implications of problems, and also to check that the Office was working according to its own Act and Instructions.

Cases with new angles or cases with any doubt about handling (eg when there were new staff members) were always brought to the staff meetings or lunches. Teamwork was essential, particularly on larger issues, such as giving statements on proposals for law amendments. Drafts were corrected so freely that it was often impossible to know, in the end product, who had contributed what, although everything was subject to the final approval of the ombudsman, who was personally responsible for anything leaving the office. With differing viewpoints, discussions were continued until a consensus was obtained. If this proved impossible, both views might be given. Diversity of opinions indicated disparity in other quarters as well, so it was important that the Ombudsman gave reasons for why the issue was bound to cause dissent.

The number of case-related complaints and requests increased steadily. Other requests remained stable.[30] Requests for information, either on the situation of children or their rights, mostly related to the law, and about the Office, were answered when the call came, with printed material to follow when requested.

HANDLING CASES

Individual complaints and issues of general interest might arise and be handled in various ways, as illustrated by the following chart:



Ways in which Cases might be Handled

BEST COPY AVAILABLE

Tables 12 and 13 (notes 31 and 32) and the chart indicate how individual complaints and requests might pass through the Office, being dismissed, referred to others, shelved or given a more thorough handling, developing issues of more general interest. The reasons for dismissal and shelving are given in the Instructions for the Office (see Appendix One). According to the Public Administration Act, the Office must give a reply to all complaints and requests. Referring or dismissing a case might be just as time-consuming whether the reply was a blank dismissal or reference (with the reason given, as required) or not. Particularly when a child is involved or a family is in distress, the ombudsman considered it ethical as well as reasonable to help. The plaintiff should not have to go the whole merry-go-round before finding the right place or person to help.

As time spent on individual issues decreased, time spent on issues of general interest increased. So the proportions of time spent on the different types of issues changed dramatically. The number of dismissals decreased somewhat during the years, but it was surprising how adults, in particular, would continue to turn to the Office in matters which the Office is not allowed to handle, even the same individuals time and time again. A survey done in November, 1989 (see Appendix Two) shows that this information was not well known. One reason might be that people needing help simply did not want to know that the Ombudsman could not help. Some plaintiffs would insist that the Office break its rules, or have them changed 'quickly, so you can help me anyway.' Others would threaten to take the refusal to court or to complain to a ministry or the Storting. Only one plaintiff took such action, but, of course, was turned down by the Storting.

The relative number of referrals increased, probably in part due to increased experience of where the complaint would be handled effectively, not only in principle, but in practice. The relative number of cases shelved and the number of hearing statements and written opinions was relatively stable; the latter even seemed to go down. The table does not reflect the fact that new opinions were not always given when the Ombudsman had handled similar cases before. The plaintiff (rather than, for example, a local authority) would receive copies of the previous statements, to be used at the judgement of the plaintiff, who, knowing local conditions better than the Office, would be able to use them in relation to local authorities, local press, or in other ways.

The relative predominance of individual complaints, mainly from adults, also remained stable, as did the proportions of general interest-issue cases and hearing statements. This distribution does not reflect the size, complexity or time taken for each case, however, nor the number of smaller cases which were closed when combined in a larger issue.

Sometimes we wondered if we spent too much time on hearing statements. But the importance of such statements in Norway, the objectives of

the Office (one of which was to point out that children are involved, are to be considered even in areas where this is not common knowledge), and the legal obligation to act as a hearing instance, made it difficult not to give an opinion. Some of these statements were comprehensive and detailed, for example, the statement on the effects on conditions for children because of changes in the distribution system of funds from national to local administrations, the statement on the proposal for a new Social Services Act or the opinion on the proposed reduction of space and staffing in kindergartens. Many were only a few lines long. When the Ombudsman did not have additional or critical remarks, sometimes the Ombudsman would refer the proposal to other, more competent bodies. In the records, this kind of 'non-statement was recorded as a statement (see Appendix Three).

FROM WHOM DID CASES COME?

Anyone could apply to the Ombudsman.[33] Complaints came from all quarters. Looking at actual cases, not the complaints and requests, it must be remembered that many requests did not become cases, but were dismissed or referred, according to the rules in the Instructions. Complaints of the same issue, coming at approximately the same time, did not become individual cases either, but were 'lumped' into one. When the Norwegian broadcasting company dropped Children's TV because a football game (the World Cup) ran overtime, a series of complaints resulted in only one case.[34] The distribution amongst various categories of plaintiffs does not, therefore, truly reflect the people, adult or children, who have actually complained. Thus, as a combined case was recorded according to the first source, children may have complained about something after it was first raised by an adult and vice versa. The distribution of sources reflects the first, not necessarily all sources.

CHILDREN'S COMPLAINTS

The cases raised by children are particularly difficult to evaluate in terms of how many children were actually behind the complaint. From children, far more often than from adults, complaints were signed 'All the children in H street' or 'The pupils of X school' or ' All of us in Mountain Valley', without any indication of how many 'all of us' actually were. Children telephoning would often have an audible, but unknown number of friends or supporters in the background.

Even with this source of uncertainty, and even if the actual numbers of cases raised first by children remained relatively stable, the decrease in the relative numbers of children's complaints was a matter of concern. The main group of children turning to the Office were school children, aged 7-12,[35] with the early teens a clear second.[36]

Children aged 7-16 constitute one eighth (12.5%) of the population. In relation to the number of adult individuals (54-66% of all cases) the number

of children's cases (12.4-7%) is a not unreasonable proportion. But the Office was there primarily for children. The contacts with children gave necessary 'grass roots' information, joy in communicating with them, and positive confirmation of children's potential abilities in problem-solving.

The most optimistic - and to some the most obvious - reason for the relative lack of complaints from children was, of course, the possibility that children in Norway were happy, healthy and content, in every way.

The Office was naturally aware that being a 'complaints' office could distort our perception of conditions for children. We were constantly reminding ourselves that 'There are very many happy children here.' Many good things - of which we heard little - were going on. But the complaints did disclose serious issues, and the distribution between various problem areas did not change radically over the years.[37] So there was no real evidence that conditions were improving in general or in any one area.[38]

The only problem area showing a marked decrease in complaints from children was the 'family situation' - but this might reasonably reflect our impression that children learned more quickly than adults which cases the Office was not allowed to handle. 'School problems' declined in absolute numbers of complaints, while all other areas remained stable, relatively and absolutely (see tables 15, 16 and 17, notes 36, 37 and 38).

The lack of increase might be due to our inability to reach children through the medium which was the most important one to them. But it might also reflect the fact that there can be a limit to how many new issues children can raise first, in an adult world. It might also reflect the possibility that children under teenage level, expecting rapid results more than adults do, would give up more easily when the results were not forthcoming.

By September 1989, at least 1100 children have been directly in contact with the Office; 0.1% of all Norwegian minors. Girls outnumbered boys 2:1 at all age levels. Elementary school girls were frequent reporters of school problems, while teenage girls were most concerned with family conflicts and their own rights within the family. The only area in which boys came close to the same number of complaints as the girls is in the planning area. Looking at the individual cases and splitting the groups so that 11- to 14-year-old girls are compared with 13- to 16-year-old boys, the boys outnumbered the girls, perhaps reflecting the maturational age difference between the two sexes.

Why Did They Call the Ombudsman?

Children might spontaneously or as a reply to a question tell why they called the Ombudsman. Some would say, 'I saw your number in the telephone book and wondered what you do' or 'I needed to talk to somebody and there's no one at home.' Parents or other adults might encourage or discourage a call: 'My mother suggested I call you about this' or 'My father told me not

to bother you, but I decided to try anyway'. Many said, 'I'm calling you now, so my parents won't know', particularly about conflicts between children and parents, either in their own family or in some other family.

A question was sometimes raised: whether all the children who called were 'resourceful', and then,'What about the ones who might really need help most?' Resourceful as compared to what? Certainly children must be able to place a call, particularly if their parents were unwilling to help. But apart from that, even very young children (down to age four) or obviously handicapped children (eg mentally retarded) were amongst the children turning to the Office.

Did they Always Get Support?

Children turned to the Office for a variety of reasons, with different ideas, problems and opinions. Obviously the Ombudsman could not agree with all of them, even though some adults were disgusted when the Ombudsman did not support their child. Working for the best interest of children does not mean agreeing with each of them. Children themselves generally understood when reasons or other opinions were given, often commenting that 'no one explained it to me like that before'. In one sense all children got support, in that the Office gave them an honest opinion and respected their right to state an opinion and disagree with the adults.

MINISTRIES, LOCAL AUTHORITIES, AND ORGANISATIONS

The requests and complaints from ministries, local authorities and organisations must be seen in connection with other factors in society. The fact that 1985 and 1989 were election years would, for example, mean that all attempts on the part of ministries to conclude issues for the Storting would be stepped up in the year prior to elections, while election year itself would mean a decrease in conclusive action, particularly in an unstable political situation. Organisations might also be expected to accelerate activity in-between election years. Uncertainty connected with a change in the Office itself, reflected in the 1988 statistics, might bring a lull in 1988-89. In fact, the proportion of complaints from local authorities was higher in 1989 than in 1988, but 1988 was the year with the all-time low for this category of plaintiffs. For organisations and national authorities the numbers were lower in 1989.

The activity of the Office itself does not reflect these trends.The number of cases of general interest, and the combined number of individual cases with general interest and hearing statements were surprisingly stable, indicating also that an average of two 'heavy' statements per week was about the limit of Office capacity.[39]

What Came Up and What Was Done?

The great variety of problems raised were sorted into six main problem areas, each more or less clearly connected with parts of the Norwegian system, for example the child protection system, the schools, urban and rural planning, as described in Chapter One. The examples used to illustrate how the Office worked, as well as the types of issues addressed, are deliberately chosen from amongst the children's complaints to demonstrate the kinds of issues children were concerned with and could present when given a chance. Children covered a wider span of problems. They raised issues not mentioned by adults, while hardly any problem raised by an adult was not also raised by a child, often in a more concrete, direct, individual fashion.[40]

The Office expected a decrease in the number of cases in 1983, after the first flurry in 1982. This did not happen. The total number of cases, with the exception of 1984 to 1985, showed a steady increase, with a very stable balance between the various problem areas. 1984-85 was election year (elections being in September 1985), which changed the pattern of issues presented in the mass media and therefore in the minds of at least the adult population. A similar dip did not appear for 1989 (also an election year), but this is difficult to evaluate because of the change of ombudsman in the same period.

CHILDREN IN UNCOMMON CIRCUMSTANCES

Fundamental Considerations

Children need a family that can meet their basic needs as they grow. Some needs are there all along, like the needs for nutrition and health care. Other needs change as the child develops. And even the constant needs change in terms of how they must be met. While a small baby can survive on breast milk alone, older children need a more varied diet. The emotional and social needs change even more: a very small child needs the constant care, contact and nurturance of a few stable adults. A preschool child also needs stable adults, but less constant care as he or she learns to manage more on his or her own. The balance between adult care and autonomy becomes more important, as do the needs for other kinds of stimuli, for example language and learning through play activities. In addition the child increasingly needs the company of peers. If the basic needs are satisfied, particularly at developmentally vulnerable stages, the child not only acquires skills and learning, but also will be less vulnerable to trauma later on. Still it is important to know that repairs are possible, although the conditions may then be more demanding and the learning make take longer.

Sometimes the family is unable to satisfy even the most basic of children's needs, due to lack of emotional, social, financial or other resources. The first option should be to try to help the parents to function better. If, however, this fails, consideration of the needs of the child, for example, for a caring

and stable family situation, must supersede the parents' wish to carry on their role as parents. The evaluation of whether or not to remove a child from its family is a difficult one, including - as it must - the effect separation and moving will have on the child, effects that vary with the child's stage of development and the culture in which the child lives. But although these are difficulties, the child must not, for the sake of the parents, suffer needlessly or too long, making subsequent readjustment increasingly difficult. Some children run into difficulties with drug abuse or delinquency, perhaps because they have been neglected, have not received adequate parental or other adult support in their environment or in school, or because the measures tried have not had the desired effect. A few of these children go to jail, even if treatment is what they need most. In jail, they are still children, and should be treated as children, with deprivation of freedom suited to a child.

Some children spend brief or longer periods in hospital. Being ill is hard on a child, with psychological effects which may, if prevention is not planned for, be at least as serious as the physical illness itself. (Some of these measures, such as contact with parents and family during hospitalisation, occur naturally in countries 'less advanced' than many industrialised countries.) According to the child's age and needs, including consideration of the regression illness may bring on, and based on research on children in hospitals, there is no reason for putting sick children under unnecessary strain during hospitalisation.

Problems and Ombudsman Concerns

Any child who does not have an ordinary home life, or does not go to an ordinary school is in this connection defined as a child in uncommon circumstances. This is not a regularly used definition, nor does it indicate whether the uncommon circumstances are good or bad. This group of problems therefore includes individual complaints about foster homes, and other support measures initiated by child welfare boards, child abuse and corporal punishment, drug abuse, juvenile delinquency, and conditions in prisons and hospitals. More general issues concern, for example, how the child welfare boards should function, health services for children, the rights of children in hospitals and prisons, the child's right to protection of integrity and security under the law.

What About Handicapped Children?

Handicapped children, or children with special needs for other reasons, are not singled out as a special group. All children can have special needs, for a short period or for life. When Karim arrives in Norway, he has a special need to learn Norwegian and may be considered temporarily handicapped in his relationship to other children until he learns to communicate. Marit is blind,

a permanent disability, and will need special training, perhaps a special apartment when she grows up. The definition of a child with special needs can be difficult in other ways as well. A child with a visual disability may only need glasses, special lighting or other visual aids in the classroom, or may be practically blind. At either end of the continuum the definition of 'handicapped' or 'not handicapped' (with or without a disability or having/not having special needs) may be relatively clear. But at which point does a child move from the non-handicapped to being 'handicapped'? And, in the case of the child needing special aids, the definition may depend on whether or not these aids are available. With the aids the child may get on very well, without them the child is definitely handicapped. So the distinctions may depend on other circumstances as well as on the condition of the child.

But all children should have the same right to have basic needs met, be the needs 'normal' or not. So there is really no reason to distinguish some children as more 'special' than all the others. What is special is that problems, even unnecessary ones, may be created for the individual child, for example, by poor planning. Peter who uses a wheel chair, could not go to the same high school as his classmates from grade school because the high school could not accommodate wheel chairs. Peter's social problem was caused by the external situation, and therefore was defined as a 'School problem' by the Ombudsman. When deaf Kari, in spite of the special right to preschool education of children with special education needs, is not admitted because of the cost of a special teacher, this creates an extra problem for Kari and her family. But the problem belongs to the 'Child care' problem area of the Ombudsman (preschools do not belong to the school system in Norway).

Holes in the Safety net

Almost all children are regularly in contact with the municipal health services until the age of four. Increased mobility loosens the bonds between families and system. Immigrant families are often ignorant of or reluctant to use the service. For both these reasons there is increasing concern about, for example, vaccination coverage. Also there is a gap in the health service safety net between ages four and seven, a gap which may be widening as municipalities cut down for financial reasons on their services for the two- to four-year-olds.[41]

The main problem within the child welfare system is the number of reported cases left unprocessed. Some blame lack of funds and people to help. Foster parents are, for example, hard to find. And the help they may need, particularly in caring for older children, is not forthcoming. Nor do foster parents have rights, for example, to adopt a child they have had for many years and who has had no contact with the biological parents. Foster parents do not have the right to make a statement to, or the same right to

appeal a decision made by, the child welfare board as parents have. Lack of case-workers is also evident in communities where jobs, permanent or temporary, are not filled. Others blame lack of efficiency or effective use of available human and financial resources. The truth probably is a combination of many factors. And the child welfare system, constantly under fire, is also being revised; the outcome of the revision is as yet not known.

Cases Received at the Ombudsman Office

The total number of complaints in this area rose, the 1983 number practically doubling by 1988.[42] The number of cases reflecting dissatisfaction with the work of the child welfare boards and concerns of hospitalised children tripled from 1982-1988. The number of complaints of child abuse, substitute placements, the needs of minority groups and problems related to delinquency or police mistreatment and to children's rights in general in this area were stable. The exception in this general picture was the sharp increase in complaints concerning the situation of minority groups, particularly asylum seekers in 1988. The trends reflect major problem areas highlighted by the Office at different periods, for example, the proposals concerning corporal punishment in 1982, and the situation for hospitalised children in 1986, and asylum seeking children in 1987-88.

The children were mostly concerned with their own rights.[43] Many wanted to know whether or not spanking, slapping, or beating was legal. Only about 15% of the children's complaints were classified in this category; many might equally well have been categorised in the 'Problems in the family' area. But when they concerned physical abuse, minor or major, the complaints were identified as belonging to this area.

Minor or major child abuse was the one type of family conflict which could not be referred to the parents. In cases of physical abuse, contact was often established between the child (with the child's consent, §2 of the Instructions) and some local service, for example, the school doctor or counsellor, the local child welfare board, depending on whom the child felt comfortable with approaching for help.

The child might, after talking to the ombudsman, decide to go to a relative, a youth leader, older friend or teacher for support. Such initiatives were supported, with a suggestion that the child call back later if he or she wished.

Individual complaints might or might not give rise to further action, sometimes depending on whether the ombudsman agreed with the child.

Sara was 13 and lived in an institution for adolescents with behaviour problems. She wanted to get married. Her boyfriend was 22 and his mother was willing to take responsibility for the girl. Sara had written to the King, with a copy sent to the Ombudsman, for special permission to marry. The King (his secretary) referred the problem to the Ombudsman, but Sara did

not get the support she wanted. She must wait until she is 18, even if five years might seem like 'for ever'. The Ombudsman was not convinced that marriage at that age would help her with her emotional and behavioural problems.

Kari, six years old, complained that her dentist was hurting her. Of course, many children feel that the dentist hurts, but this sounded different: by holding her so that she had marks on her arms and jaw, pushing her hard into the chair, and throwing her mother out of the room. The mother was told that she could file a complaint with the county and ask for transferral to a different dentist (each child ordinarily goes to the dentist connected with the local school). No further action was taken at that time, but after receiving similar complaints concerning different dentists, the Ombudsman turned to the University Faculty of Dentistry, asking what training dentistry students received regarding the treatment of young children. The reply was satisfactory; the conclusion was that the faults were in the persons, not the system, so having taken the problem one step up, no further action was taken.

Young People in Prison

Ole was 13 when he raped a five-year-old, 14 when he was arraigned. Anders was 14, with a long history of car thefts, petty stealing, truancy from school, and fights at home. Both boys were put in 'adult' prisons, for 'safe keeping' while the cases were investigated. The police and prosecution feared that evidence might be destroyed or the crime repeated.

Ole, obviously emotionally disturbed, was granted treatment in an institution of adolescent psychiatry, but had to 'live' in the prison. And treatment was soon denied because 'funds were not available for the extra police needed as escorts.' To move him out of the 'unhealthy' conditions in prison, Anders was taken to a psychiatric institution for senile schizophrenics. Both boys complained: they were denied their right to an education and visits from their relatives or parents. The rules for visits, tailored for adults, gave each prisoner the right to a half hour weekly visit, but if a school-friend came, the child would not see mother or father until the next week - a severe restriction compared to visitation following divorce (generally one whole afternoon per week, every other weekend plus vacations). In Ole's case his family and other supporters, backed by the Ombudsman, finally found a place for him in an different institution. In Anders' case the Ombudsman asked if the child welfare board from his municipality could intervene, on the grounds that he was living under conditions which might damage his physical and/or mental health, the principle cause for child welfare intervention.

The issue was not in either case whether or not the boys were criminals, in the sense that they had broken the law. Cases such as these raised two principal questions:

1. Should people as young as 14 be imprisoned?
2. If imprisoned, should they be denied other rights in addition to the right to freedom?

The evaluation of the Ombudsman was that children of this age, demonstrating behaviour of these kinds, needed help, treatment and rehabilitation. According to prison officials, the beneficial effects of imprisonment were at best uncertain. Young offenders said that the only thing they could certainly learn was how to be a 'good criminal', and drug abuse. Particularly if denied a teacher or an education, their chances of getting on well when they got out of prison were seriously reduced.

The Ombudsman raised the question of age of imprisonment in 1985, by writing to the Minister of Justice. Norway was the only country in Scandinavia allowing imprisonment of 14-year-old children. Most of the juvenile delinquents were taken care of by the child welfare system, often in collaboration with child and adolescent psychiatry and/or the school system. In many municipalities a new system was being tried, where young 'first offenders' would, instead of being prosecuted, meet with whomever their offence concerned - for example, a shop owner (in cases of shoplifting or destruction) or a car owner (in cases of theft) - and come to an agreement about how the youngster could replace or repair the damage done. When this type of reaction worked, the youngster would avoid a 'black mark' on his or her record with the police, could gain from the confrontation with the damaged or offended person by coming face-to-face with the consequences of his or her actions, and learn how restitution might be made.

The fact remained that Norway, with no juvenile courts or prisons, allowed trial by 'adult' court and imprisonment in 'adult' prisons of children as young as 14. Statistics (necessary to convince the politicians that the numbers involved would not be a great barrier to change) proved difficult to get, but in 1986-87 a proposal from the Ministry of Justice to the Storting indicated that 25 14- and 15-year-olds were in prison in 1987. In 1988 (up to November 3) eight 14-year-olds and 21 15-year-olds were in prison - the number might, however, include 'repeaters'. One argument against raising the age of imprisonment was that alternative methods of treatment were not available. But with the strengthening of the child welfare system in 1985-88, this argument, particularly seen in relation to the small numbers involved, did not carry much weight. The Storting in 1987 decided that the age limit should be raised to 15 years, but - exceptional in Norwegian Parliamentary history - did not say WHEN this should happen. The proposal must be returned for renewed Storting debate to decide when the new law should go into effect. In 1988 the Ombudsman therefore asked the Ministry of Justice to re-propose the Act, pointing to the fact that Norwegian law on this point did not correspond with the Draft Convention of the Rights of the Child. The Ombudsman was asked to meet the Justice Standing Committee and

spent time lobbying other Storting members, one of whom said: 'I don't want to talk to you - you might convince me and I don't want to be convinced, since I believe now that we have to be tough with these tough youngsters!' The new law was passed in 1989, to go into effect January 1, 1990.

The Child Welfare System

Lise was 16 and pregnant. Since the age of seven she had lived with foster parents in X; her parents lived in Y. Lisa wanted to have her baby, stay in X, where she had friends, was active in sports, and felt that she had the support she needed.

But the child welfare board in X, with the support of the child welfare board in Y, wanted to move the girl away from X. According to the judgement of the Ombudsman a girl of this age should be able to manage, provided she could get the support she needed. There must be serious reasons for uprooting a girl against her will, from friends and school, even if she admitted she did not get on very well with her 'parents'. Asked by the Ombudsman for reasons, the child welfare boards agreed that Lise could not live with her mother in Y, the foster parents could not take care of the girl, particularly with a baby, and thought a man 50-60 years of age in X might be the baby's father. Since the girl became pregnant while under the age of sexual consent, the question of prosecution might arise. The final decision was to be made by the authorities in Y, her 'home' municipality. The Ombudsman told Lisa that she, being over 15 years old, could appeal the decision. To act on her behalf at the decision-making meeting, the Ombudsman wrote to Y, requiring that Lisa should have her own lawyer, and pointed to Lisa's legal right (according to the Parents and Children Act) to have her opinions given serious consideration. Also, Lisa's right to be informed of the grounds for the proposed decision had been neglected. Finally the Ombudsman stressed the requirement of the Child Welfare Act that replacement (as well as placement) shall only be carried out if it is in the best interest of the child, indicating that the success of a move which would be so obviously against the will of the child, could be threatened for that reason alone. Consideration of alternatives which might as a whole be better not only for Lisa, but also for her child was proposed. If the authorities in X, with their knowledge of local conditions, had serious objections to having Lisa live in X, these reasons must be explained fully to Lisa, to ensure her cooperation if she had to move.

The outcome was that Lisa was moved to a small apartment in X, and could continue in her school and other activities. A consultant from the social welfare service helped her learn how to manage her budget, the housekeeping and the care of the baby, who also had nursery placement during the day (and the Ombudsman's legal adviser got his first and only bouquet of red roses when the baby was born).

This case did not give grounds for other action, but served to demonstrate the need to follow up the implementation of the rights of young people.

The opinions of the Ombudsman on proposals for change of the child welfare system were based on the professional knowledge of the Office, but also on my experience as a member of the municipal child welfare board, the social welfare board and the Municipal Council of one of the richest communities in Norway. Even there, where money did not become a real obstacle until 1986-88, child welfare was given low priority.

A total revision of the Social Welfare Act was proposed in 1985, incorporating other legislation, for example, the Child Welfare Act in a new Social Services Act. In the proposal municipal responsibility for conditions for children in general and for preventative measures in particular (in the Child Welfare Act) was not included. The Ombudsman suggested that this general responsibility should again be included in the new Act. Also, each municipality should have a special Conditions for Children Board responsible for pointing out developments with harmful consequences for children, (eg when play areas are destroyed), proposing preventative measures (eg age limits for renting videos) and demonstrating in general planning how money used in one area (eg kindergartens or pedestrian walks) can save more money in other areas (eg hospital expenses or special education).

The other main area of concern was the lack of rights for the children themselves. Children should have their own, independent right to help, so that whatever assistance a child might need could be given even if the parents objected. Present legislation permits that measures planned to help a child and avoid moving it can be carried out in spite of parental disagreement. Parents might, for example, object to nursery school for a three-year-old child with speech problems ('Our child is not going to a zoo! or a prison for kids!', as one parent said). After six months the child is talking, mother is happy in a new part-time job, the family economy improved. The Bill for the Social Services Act did not, however, give the child independent rights.

The third Ombudsman proposal was that decisions of taking over parental responsibility without parental consent should no longer be made by lay people (politicians), but by professionals. The families involved usually have long lasting and complicated problems, and numerous attempts to improve the situation for the children have often failed. Such decisions are difficult and painful for the parents, but also for the politicians. The Ombudsman proposed local professional groups, with legal as well as psychosocial expertise, possibly with other responsibilities as well (eg counselling in divorce cases). The Social Services Bill indicated that professional boards on the county level may get the responsibility for these cases. In the view of the Ombudsman this would be an improvement, but also lead to a loss of the local knowledge so useful in these decisions, taking into account the distances in many counties in Norway.

The Bill was sent to the Storting in 1989, at which time the Ombudsman sent copies of the hearing statement to each member of the committee. The Bill was still in the Standing Committee on Social Affairs in May 1990.

Is the Child's Right to Investigation and Help Unconditional?

The mounting number of uninvestigated cases of child neglect in many municipalities caused increased concern among social workers and other child workers all over the country. A considered opinion (asked for by Redd Barna, the Save the Children organisation) from a law professor (Anders Bratholm) stated that the municipality's unconditional responsibility for investigating all such suspicions must mean that the obligation to provide necessary assistance was also unconditional. In practical terms this would mean that the municipality was legally bound to supply the necessary funds. The Ombudsman, on the basis of complaints from social workers in the field, passed this statement to the Ministry of Health and Social Affairs, as the highest authority of the child and social welfare system. The ministry did not agree with the statement, but had not given a written reply by January 1990. The viewpoint expressed orally was that while the municipality was obliged to investigate, the funds allocated to child welfare purposes must be decided by the municipality. If the funds were insufficient, too bad! The Ombudsman's question was then, 'Why investigate, when no funds were available until the following year?' in an attempt to make the Ministry realise that the right to investigation might be worthless for the children who really need help, if not connected with the right to adequate help. My plan for further action, if a written reply confirmed the oral viewpoint, was to go back to one of the municipalities that had raised the issue and ask for their help in finding a family that had been denied investigation and/or help because of lack of funds. Finally, the Ombudsman would ask the family to sue the municipal administration, to get the issue clarified, if necessary by the Supreme Court.[44]

Child Abuse/Physical Punishment

In February 1982 the Ombudsman received (from an adult) a publication edited by a teacher, which advised parents to spank their babies if the children did not go to sleep promptly at night. An occasional, rare, impulsive slap, for example in irritation, will hardly cause permanent damage to a child. But regular use of corporal punishment or the planned, cool use of adult physical superiority, is a different matter, even when it does not develop into regular physical abuse or child battering. Research clearly indicates that children who are exposed to such treatment are - as a group - more aggressive and violent than other children. Nor do they learn logical cause-and-effect connections between their actions and what follows. The Ombudsman asked the Public Prosecutor to consider whether advising

parents to use corporal punishment was illegal, encouraging illegal acts being illegal in itself. The Public Prosecutor stated only that advice of this sort could not be termed encouragement. Somewhat later, a preacher on television stated that he, under divine guidance, had spanked his children regularly, from the age of two. The Ombudsman went on television and the public discussion was in full swing.

The Storting had discussed the issue in 1979, in deleting from the Penal Code an exception according to which corporal punishment by parents, for educational purposes, was not classified as physical abuse and therefore not illegal. While the exception was deleted, the debate did not clarify the issue sufficiently to help the courts or child welfare boards deliberating cases of child abuse. Obviously further clarification was necessary. The Ombudsman therefore started preparatory work to propose a law amendment to the effect that physical punishment was not to be approved. During the summer of 1982, however, a public commission on child abuse submitted its report (NOU 1982: 26) suggesting, amongst other measures to prevent child abuse, that corporal punishment and treatment that might threaten the physical or psychological development of a child should no longer be legal. The amendment was proposed to help change attitudes; the number of parents using corporal punishment had been dropping. It is also worthy of note that the amendment did not give grounds for penal action. If the use of physical punishment was serious enough to warrant arraignment rather than treatment or help to parents as well as children, the Penal Code must be used.

This was the only suggestion from the commission related to the Parents and Children Act (the responsibility of the Ministry of Justice). The Ombudsman asked the Ministry of Health and Social Affairs to detach it from the rest of the package, which the Ministry did. The Ministry of Justice in June 1984 had prepared a Bill, based amongst other things on an Ombudsman statement on the legal and psychological consequences of corporal punishment. The Council of State was, however, unwilling to send the Bill to the Storting, in spite of the efforts of the Minister of Justice. The Ombudsman turned to Storting members to have questions asked in the Storting and to the Prime Minister, who in July 1985 replied that while the Council of State did intend to have the Bill sent to the Storting, they had decided to wait for other amendments of the Parents and Children Act. The Council of State also felt that children were protected by the Penal Code, an opinion that was not shared by the Ministry of Justice or the courts. Other proposals for amendments were unknown to the Ombudsman. It turned out that no other amendments had been proposed at that time. If the Council of State was prepared to wait for any future amendments, the Bill might never be sent to the Storting. The Council of State changed in May 1986. The Bill was sent to the Storting late in 1986. The Standing Committee on Social Affairs submitted its opinion early in 1987. It then became clear that the Bill, couched

in careful terms so it would provoke no one, would still leave the legal protection of children unclear. The Ombudsman now turned to a Superior Court lawyer and two law professors, asking them to give written statements on the effects of the law, if the Storting did not, in its final debate, clarify the intentions and therefore the interpretation of the new law. The written statements appeared in the newspapers a few days prior to the Storting debate. In the meantime the Ombudsman lobbied members of the Storting, explaining why the new proposal was equivocal. In the Storting debate speakers from all parties (the parties split on the issue) made it clear that there should be no doubt concerning the legal protection of children. The amendment was passed and went into effect January 1, 1988.

The Ombudsman then asked for an information campaign, to inform parents of the act, but more important, to point to alternative ways of providing necessary discipline. Two small booklets (10,000 copies) were published by the Ministry of Health and Social Affairs, and a full page advertisement appeared in all major Norwegian newspapers in 1988 (when similar legislation was passed in Sweden in 1979, the Ministry there mounted the widest campaign in the history of the Ministry, including booklets to every Swedish household).

Children in hospital

In the 1970s two national organisations (Mental Barnehjelp and the Norwegian OMEP) suggested rules or regulations setting standards for conditions for children in hospital. Hygiene demands in modern hospitals and a lack of knowledge about the needs and reactions of children had led to unfortunate restrictions. Parents could only visit their children briefly and rarely, sometimes not even daily. Based on current research, for example, on separation-anxiety reactions in babies, the Ministry of Health and Social Affairs considered regulations, but found that the discrepancy between the requirements and conditions in the hospitals was so great that regulations would involve expenses too enormous to contemplate. Guidelines were, however, given, with recommendations to the hospitals. Parents should be allowed to visit freely, and children, at least under the age of six, should be allowed to have parents with them when necessary, for example, in critical phases or prior to operations.

In 1982 the Ombudsman asked Mental Barnehjelp to evaluate the present situation in hospitals, and was referred to the Scandinavian Association for the Needs of Sick Children (NOBAB). In 1985, the Norwegian branch and the Association for Hospital Teachers presented a report, showing that conditions were satisfactory in the majority of hospitals, but that activity and education was a neglected area.

The Ombudsman in 1986 asked the Ministry of Health and Social Affairs to consider a revision of the guidelines, also upgrading them to regulations,

based on the Hospital Act and the Act of Health Service to Psychiatric Patients. The Ombudsman, in collaboration with the organisations and also including the Norwegian Association for the Handicapped, helped to prepare the regulations, which were passed in 1987. The regulations give children stronger rights, for example, to preschool and school activities and education, and to have parents present at any time, even after the age of six. The parents now have the right to spend nights in the hospital and to have meals in the hospital cafeteria. Some problems still remain unsolved, for example, the funding of special education in hospitals. Municipalities differ in their willingness to pay the bill, so that even children with the same diagnosis, in the same ward, but coming from different communities, may get different treatments. The Ombudsman therefore suggested (in letters to the Ministries of Health and Social Affairs and of Church and Education) that the municipalities pay an annual lump sum allocation to the counties, based on the average number of hospital days for children during the past five years.[45]

The financial problems of parents during long-term illness, with the loss of income this may involve is still unsolved, and parents still face the problem of split responsibility when they have other children at home. The latter is, however, a problem which can hardly be solved by legal means.

Asylum-seekers and Young Immigrants

Mary was 15, and faced the possibility of being sent to her parents' country of origin to be married. She had lived in Norway since the age of three. The idea of being sent to a country unknown to her, to traditions different from many she was accustomed to, and of marrying a stranger, made her desperate. Since this was a family conflict, the Ombudsman could only give advice, suggesting that the local child welfare board might consider whether there were grounds to take over parental responsibility. The girl would then be placed in a foster home and would avoid being 'exported'. The outcome was that the parents, faced with this possibility, decided to let the girl stay with them in Norway.

For the Ombudsman the practically non-existent number of complaints received from children of immigrants was a matter of concern. The Ministry of Local Government and Labour had declined to translate Ombudsman material into other languages for these groups. Increased concern was caused by the increase in racist propaganda in 1987-88.

In 1988 barely 33,000 persons 0-19 years of age of foreign origin lived in Norway, three fifths as many as the annual number of new-born Norwegians (the number of non-Norwegians living in Norway is far lower than the number of Norwegian children living in other countries). The number did not include young asylum seekers as it was impossible to find out how many minors were seeking asylum or were members of asylum seeking families.

This question in itself was of concern to the Ombudsman in 1987-88, since it indicated lack of public interest in these youngsters. The Ombudsman was worried that these children were not provided with education and health services according to the rights they had as inhabitants. The Ombudsman carried out an investigation in 1987 which showed that the ministries and the police did not know how many municipalities had children of these categories within their boundaries, how many children might be involved. Further investigation in the municipalities disclosed gaps in how the educational rights of these children were taken care of, the municipalities often putting the blame on lack of additional funds to go with the added responsibilities.

An entire redistribution of responsibility, with a new Directorate for Foreigners was underway, making it temporarily more difficult to find out who was responsible for what. A special issue was brought up by some 16-year-olds: these young people did not have guardians appointed to help them, they could be arbitrarily moved from place to place - up to four locations in six months - and they then did not go to school. The Ombudsman prepared a report on the educational situation in 1988, and also raised the question of guardians. The Ministry of Health and Social Affairs, while agreeing that this concerned child welfare, referred to the Ministry of Justice, responsible for the Guardianship Act. The office responsible for the Act referred to a different office responsible for implementation. This office referred to the new Directorate as being responsible for foreigners.

In the meantime the Ombudsman, collaborating with 'Redd Barna' and the Diocesan Council of Oslo, asked the Ministry of Justice for new procedures in initial interviews with immigrants on arrival, to be able to register the number of minors, their special needs, and if the children were somehow the cause for seeking asylum in Norway. Minors arriving alone must be provided with a guardian, and the interviews must take into consideration the children's previous traumatic experiences, for example, in their earlier contacts with police. While general agreement was expressed in principle, little improvement was found in the following year. The Ombudsman participated in several rallies, and organised seminars (in collaboration with NGOs) on the situation of these children. The Ombudsman argued the rights of this small minority group, and also quoted the Draft Convention on the Rights of the Child, pointing out that the right to a nationality was being neglected in Norway. If Norway is not prepared to give automatic citizenship to any child born in the country, Norway cannot solve this issue alone, since the right to a nationality then depends on the legislations of and agreements between two countries. A child born out of wedlock, in Norway, with a mother from an African country which gives the child the citizenship of the father, will be 'stateless'. The child in Norway would get the nation-

ality of the mother if the parents are not married. But Norway cannot give the child its African mother's nationality.

No major change in practice evolved from the Ombudsman efforts even if government policies have improved in principle. But the most important change of all is there: the issue is on the national agenda and can never again be forgotten.

CHILD CARE AND LEISURE TIME FACILITIES

Fundamental Considerations

The increasing number of mothers working is one of the reasons for the increase of need for day care. Children's needs in relation to day care change as they grow. Babies, particularly under one year of age, can very well relate to two or three adults, but need stable relationships with these people. Apart from breast-feeding, fathers can take over or a day care person can substitute, so long as the person is caring and therefore meets the baby's need for stimulation as well as contact. Breaking bonds, particularly from the age of four to five months and up to one year, can have long term negative effects on a child's cognitive as well as social and emotional capacities. These possible negative effects can be prevented, if enough stable relationships are undisturbed during gradual transitions to new people.

As the child reaches two to three years of age, tolerance for changing adults increases, particularly if there are a few stable ones all along. The needs of the child for space for exploratory play and gross motor experience increases, as does the need for social interaction with peers, in addition to interaction with adults to provide language stimulation. As development goes on, the need for space, play equipment, and peers increases. The basic social learning acquired amongst peers has been underestimated, overlooked as long as every child had peers or siblings just a few years older and/or younger at home and in his or her play environment. This means that even children with mothers at home can be 'deprived' in families with one to two children and in neighbourhoods with families of this size. Such deprivation will eventually lead to a school readiness which is different from the way it was two to three generations ago, because the first graders (be they five, six or seven years old) have not had the social learning experiences and do not have the social skills of school beginners 30 years ago.

Young school age children in particular also need adult supervision outside school hours. They can manage periods on their own, and need time for unsupervised child directed activity. But hours on their own, specially in areas with very few children, can easily lead to undesirable behaviour, simply because of the lack of guidance from adults or older children.

Problems, Complaints and Concerns

The problems connected with combining care and early education of children with parental work outside the home dominate this area. Care of children outside school hours and the *public* free time activities (or the lack of them) for school age and teenage youngsters also belong in this category. The number of complaints was under 10% of the total of adult complaints, under five per cent of the children's complaints.[46]

The low number of complaints from children is understandable, these children being mostly of preschool age. The complaints from children[47] were clearly connected with municipal budget cuts, closing down or reducing hours in publicly funded clubs for children. Others, however, pointed to problems where small means could remedy a situation. Peter (ten) wanted to have the neighbourhood football field watered to make a skating rink. He was told to phone the local park authority, but to let the Office know what happened. When nothing happened, a call from the Ombudsman put sufficient pressure on the authorities to have the field watered. Anne (eight) complained that the adults and big boys were using the entire skating area for ice hockey, not the smaller rink close to it. She wanted a sign put up, so the smaller children (and the bigger ones not interested in ice hockey) could get the larger part of the area. Again, a telephone call from the Ombudsman to the responsible authority was necessary to get results (in both these cases parents had not carried enough weight to initiate action).

Nursery Schools and Kindergartens

Other individual complaints were also handled by contacting municipal authorities. Eric's mother reported that Eric, age four, who had a malignant tumor in his stomach, had been denied a place in the local kindergarten. Turning to the kindergarten administration, the Ombudsman was told that 'apart from the lump in his tummy, Eric is described as a perfectly normal child; he has no special need for kindergarten.' A letter from the Ombudsman, with a copy to Eric's mother (suggesting that she take it to the local newspaper) changed that decision.

Children with special education needs are to be given priority in preschools, if the child can benefit from the opportunity. Particularly after 1985, when the national funding of special education for these children was no longer 'earmarked', the following type of complaint began to appear:

Anne, four years old and practically deaf, was denied kindergarten. Her speech therapist recommended kindergarten, saying that she would also need a speech therapist with her three days a week. The local authority said that they could provide a young untrained girl to help, but could not afford speech therapy. The experts insisted, and the local authority denied her kindergarten, since 'she will not be able to benefit from the opportunity' as provided by the municipality. In Anne's case no amount of pressure helped;

the municipality insisted that there simply was not enough money to pay for what Anne needed. However, a compromise was found: Anne did go to kindergarten, and her teacher there was given extra supervision so that she could understand Anne's efforts to speak. This case, and others like it, uncovered an issue of more general concern: the Kindergarten Act does not state the child's right to the education the child needs, but leaves a loop hole through which the municipality can slip their responsibility, when authorities are unwilling to provide the extras needed so the child CAN benefit.

Adults complained about the lack of preschools, but also about differences between municipalities in the rules for accepting applications and the cost for parents. The National Budget has a special budget which covers approximately 30% of the running expenses for municipal preschools. The remaining expenses are covered by the local budget and the parents, often split on a 50-50 basis, but parental cost may also be graded according to income level. Parents with very low income (eg many single mothers) can get a place free, but the level set for such benefits also varies from municipality to municipality. In all such cases, the Ombudsman would ask for municipal preschool plans for establishing and running preschools and for the reasoning behind their rules, criticising when grounds were found. In one municipality the parental cost was set so high that it more than covered the expenses, apart from the national contribution, making the preschool a source of income for the municipality. In another case the municipality had not considered the costs involved if the preschools, as suggested, were all closed. Apart from making the mistake of including the national subsidy in the local income budget, closing would mean providing special care and education in other, more expensive ways, for a number of children, and loss of income tax income from not only the mothers (and the fathers, who would then be in a lower total- family-income bracket), but also from the preschool staff (who would be out of work and perhaps even be entitled to unemployment benefits). According to the calculations of the Ombudsman, in this municipality the expenses would then be higher than the expenses for running the preschools. This was pointed out to the local politicians, who decided to keep the preschools open, reducing the staff and the hours somewhat.

Most of the main issues handled by the Office were connected with Ministry proposed amendments to current legislation. The Council of State, in 1982, proposed that all preschools should be based on and teach the Lutheran Protestant religion, like the schools, since Norway has a Lutheran State Church. In grade school, parents may require alternatives, take their child out of class during religious instruction or let the child join 'ethical instruction classes', often held for children from different grades together. The Ombudsman objected to this amendment, mainly because:

- children under seven years of age may experience conflicting loyalties when the teaching at home and in the preschool differs, while more mature children can tolerate and understand that adults may have different opinions and faith
- parents cannot choose to take their child out of the group, since religious education is not given in 'class'
- parents cannot, with the paucity of available nursery schools and kindergartens, choose a preschool of their own faith, but must take what they can get
- the number of parents of other faiths is increasing with the number of immigrants coming to Norway. Preschools have a high proportion of these children, since not being able to speak Norwegian may be considered a special need for preschool opportunity.

Accepting and respecting that Lutheran morals, traditions, and values are prevalent in the Norwegian society, the Ombudsman concluded that religious education of preschool children should be the responsibility of the parents.

This opinion was questioned in the Storting. A member of the Christian Democratic Party asked if the Ombudsman was not obliged to be loyal to the Council of State. The Minister replied that the Ombudsman was not so obliged, and that the purpose of the Ombudsman Office was to have an autonomous office critical to any part of the Administration. However, she hoped that 'the Ombudsman in future would base her opinions on factual knowledge.'[48] The question also had other repercussions. A group of psychologists publicly accused the Ombudsman of distorting research and spreading false information to Norwegian parents, by saying that religious instruction in the preschools would be harmful. If the accusation were true, it would be a breach of the ethical standards of the Norwegian Association of Psychologists. The group was, however, unwilling to file a complaint to the Ethics Committee of the NAP, so I filed a complaint against myself, and was cleared by the Association. The amendment was passed by the Storting.

The Ombudsman also demanded that standards for the outdoor play areas be included in the Act. A space 'suitable for 40 children' would not have been approved by the Ministry of Agriculture as suitable for two bears. The space required for all kinds of animals, except caged hens, was larger per individual than that the guidelines suggested for preschool children.

The Ombudsman supported suggestions for rules on minimal staffing and for including the 'park aunt' system in the Act. There was, however, some fear in 1982 that a minimal staffing would be considered a maximum, leading to reductions where staffing was higher, so the minimal staffing rules were not included in the ministry proposal to the Storting. The need for rules to prevent reduction of staffing became increasingly evident, particularly when the Council of State in 1987 proposed new amendments

of the Act, to increase the numbers of children per group and reduce space requirements, with the aim of expanding the use of existing preschools. Lower standards would increase the capacity of preschools, a greater number of children could then attend, but it would be a preschool of a lower quality.

It was the opinion of the Ombudsman that a reduction of the quality was unacceptable, and that providing preschools should be made mandatory in the municipalities. The Ombudsman emphasised that no member of the Storting, in the debates of 1982 and 1984, had indicated that the quality of existing preschools should suffer in order to increase the number of available places. Good preschool experience is a good investment. Norwegian profits might not be as high as in Ypsilanti (High Scope)[49] but High Scope preschools had a better, and therefore more expensive staffing than Norwegian preschools and there was no reason to believe that a Norwegian investigation of this kind would not prove that Norwegian preschools could also be profitable.

The Ombudsman strongly emphasised the 'new' needs for preschool experience, arising from the changing family (with few children), the changing conditions of the family (with so many working mothers), and the changing conditions for children, for example, with the rapid increase of traffic and dangers for play outdoors.

With less space and fewer adults, aggression amongst the children might increase, problem solving and learning (particularly language) would become more difficult, and the working conditions for adults deteriorate, partly due to increased noise level. Turn over amongst adults might increase, and there would be less time for parent teacher collaboration.

Arguments from proponents, stressing the need for more capacity, compared preschools to schools. 'When one grade school teacher can handle 25 pupils, 18 preschool children could hardly need more that two adults.' Understanding the need for increased capacity, these comparisons were nonetheless unacceptable to the Ombudsman for the following reasons:

- The average number of pupils in the elementary school classes was under 20 in 1986 and the ratio between children and adults (including non teacher staff members) was 1:10
- Classes have older children and age similar groups, not mixing seven years age span (or an even larger *developmental* span) as is done in preschools
- Preschool groups may include as many as 50% with special education needs.

Research on the effects of preschool education for 'ordinary' children in Norway is impossible, the groups being composed of so many children who have priority because of difficulties of some kind. Research on the effects of preschools probably will show how the gap between 'ordinary' children and

children with special needs may narrow, but will hardly demonstrate differences between groups of 'ordinary' children with or without preschool experience. An ordinary class in school rarely has more than one or two pupils with such needs.

- Cost was hardly an argument either, preschools costing exactly the same per child per year as secondary school (no one has suggested lowering the number of teachers in secondary school, but this might well be possible if the availability and quality of preschools were improved, so that all children had acquired better working and learning habits by the time they entered school).

The Ombudsman also suggested that the Planning and Building Act should be amended so that all new establishments of business or public institutions must include financing the number of preschool places needed by the staff of the business. This idea was supported by the National Employers Association, but by nobody else.

In spite of opposition, not only from the Ombudsman, (the Ministry proposal in 1985 got support from fewer than ten sources (municipalities, counties, unions were among the hearing institutions) and opposition from hundreds) the proposals were presented to and passed by the Storting. The arguments from opponents were simply disregarded.

The hearing statements of the Ombudsman were widely circulated, for example, to all municipalities, partly because of the research data and sources cited. A number of municipalities, free to make their own decisions, decided NOT to change local regulations to conform with the new national standards, thereby deciding not to reduce the quality of their preschools. In other municipalities the preschool teachers took the new rules to court. While losing their case they did get the court's support in their claim that these rules could only be enforced if the children did not suffer. The Ombudsman was called as professional witness in this case.

Private Day Care

One consequence of the lack of nursery schools and kindergartens is the pressure on the private care market. Most of the caregivers are conscientious, but neglect or abuse does occur, and the possible control mechanisms are practically useless.

Cases concerning private child care had principle interest and legal repercussions. One adult reported that the curtains of a private house in her neighbourhood were drawn all day and that no children were seen outside, in spite of the fact that small children were brought there daily. Another plaintiff was a mother whose child, two or three years old, was increasingly unhappy in the mornings and increasingly sleepy in the afternoons. Parents were not allowed inside this (other) caregiver's house. In both cases the Ombudsman notified the local health and social welfare authorities, who

found that the children were given tranquilisers on arrival, had nothing to play with (tearing the wall paper off the walls in the absence of other activities), were not taken out of their snow suits, nor changed, during the day. Both 'institutions' were closed, in accordance with the Municipal Health Act, which can be invoked in cases of serious physical neglect.

When the neglect is more psychological in nature, however, this legislation is of no use. Other legislation which could be applied did not exist. One woman who took care of 16-20 children under age two, without help, was reported to the local child welfare office. She claimed acquaintance with the Ombudsman as one 'qualification', having met her on a local radio programme the year before (when the Ombudsman had given her the Kindergarten Act, with the rules for public approbation). The local authorities alerted the Ombudsman, since she was mentioned specifically and I used my right to an unannounced investigation (Act §4). The woman, stating that she 'only' had nine children there, actually had 15 (not including her own eight-year-old), there were three beds for naps, cups were passed from child to child, and facilities were poor in general. She had passed herself off as a psychologist, telling parents that she did not pick up children who cried because she was giving them 'psychological training', particularly 'independence training'.

The local authority ordered her to stop this activity, with reference to the Child Welfare Act, but the woman would not follow this order, and the child welfare office had no means by which to enforce it, except by taking the case to court. The child welfare board could only handle cases of individual children, and none of the parents were willing, naturally, to expose themselves voluntarily to the investigation thus required. The woman then sued the authority for breaking into her house without a warrant. The case would later be brought to court, but led to an amendment proposal of the preschool legislation, authorising local authorities to stop illegal, harmful activities of this kind, if need be by fining the person in question at least as much as she was being paid (in this case N.kr. 3000 per child per month, or 48,000, equivalent to US $8000, per month, tax free).

Six-year-olds were also of special concern in connection with the discussion of lowering the age for school beginners. In 1981 the proposal was made, but then implying that the curriculum for six-year-olds should be the same as the current curriculum for seven-year-olds, and that then nine years of compulsory school would end at age 15. The age of entering the last phase of secondary school (now approximately 16) or university was not discussed.

Increasing unemployment for the young, particularly seen in relation to Labour Act restrictions for youngsters under 16, was one reason for closing this discussion fairly quickly. The question of the six-year-olds still remained, however, and a public report was circulated in 1985. According to

the Ombudsman the question of whether six-year-olds should go to schools or in kindergartens (often with different administrations and budgets) was less important than the curriculum they were to be offered and by whom. Looking at the needs (for day care as well as the emotional, intellectual and social needs) of this age group and the training of teachers, I found that the kindergarten would be the better choice. The need for a closer cooperation between the kindergartens and the school system was emphasised; in 1988 the Ombudsman suggested that the Ministry of Education and the local school boards should be responsible for all education from birth to age 19. Expanding the training of grade school teachers to increase their knowledge of preschool children and the training of preschool teachers for the seven to ten year group would facilitate moving from one system to the other, for children as well as for the teachers. This suggestion was repeated by a public committee on teachers' training in 1988. Including six-year-olds in the school system, with two to three hours per day in school, would increase the demands for 'free time homes', and also bring 50,000 more immature pedestrians on to the roads, increasing the need for safety measures and/or transportation. The issue has still not been clarified. A longer school day for the seven- to ten-year-olds has been given priority.

SCHOOL PROBLEMS

Fundamental Considerations

School age children need to go to school, to acquire knowledge and skills they cannot get at home. They are eager to learn, glad to acquire new skills, thrive on responsibility, at a stage where rules and learning how to make them are of prime interest. The skills include reading and writing, and the use of language as a communication tool. Basic concepts should have been acquired in the pre-school years. In small families, and particularly when television is expected to substitute for social language learning or when experimental play possibilities have been seriously limited, children may come to school without basic concepts or even the words for ordinary things around them. In addition to the basic learning skills, children need facts and other information. But, perhaps even more important in times when necessary information changes quickly, children may need knowledge about where to find and how to use whatever information they might need in the future. In addition to this, children need to learn social skills suitable for a world which is changing fast and is increasingly cross-cultural: tolerance, flexibility, creativeness, responsibility for others as well as for themselves. They need to know how a democracy works and how each individual can have an impact on the smaller or wider environment in which they live.

Complaints, Contents and Consequences

No child complained about the curriculum, and adults very rarely did so either. Individual complaints often concerned conflicts between children, or between child and teacher. The number of complaints about school issues remained relatively stable over the years.[50] But the distribution between various issues shifted. Problems and opinions concerning organisation of the school day (hours, free or to-be-paid-for activities after school, the relative importance of different subjects) peaked in 1984, when the new proposals for curriculum frameworks were presented by the Ministry of Education. Making an opinion or discontent known was more important before the new plans were final, while a 'now let's wait and see how it works' attitude was more common afterwards.

Concern about closing schools or cutting down the number of classes varied, reflecting the financial situation in the municipalities. The local authorities are obliged to run schools for all children, but there are no standard rules, except the maximum number of children per class and the minimum number of hours per child per year. During the past 30 years the total time spent in school has been reduced, mostly by cutting the length of each 'hour' from 55 minutes (when present day parents went to school) to 40 or 45 minutes. Saturdays are no longer school days, leading one Norwegian statistician to say that 'present day children have one and a half years less schooling than their parents had, but on the other hand can enjoy having the same books, even the same copies!' Indeed, many complaints concern outdated or simply deficient or worn out school material. Parents are frustrated, wanting to help with homework. Methods have changed, so what they once learned cannot easily be transferred. The books are too old to tell 'how to do it', the teacher has explained it all in a different way (not available at home).

Difficulties with local funding also reduces transportation. Until 1985 local authorities covered the cost of transportation. Transferring pupils to other schools involved an increase in transportation costs, sometimes high enough to prevent the closing of a school. Since 1985 the county covers the cost of transportation if the distance is more than four km (2.5 miles). When a municipality closes a school, the children may need transportation, but expense is covered by the county budget. In this way distance becomes an incentive, not a difficulty, in closing a school. The problems of municipal school plans and transportation must therefore be seen together and in relation to this redistribution of expenses. Also, some of the complaints on staffing must be seen in this connection, since closing schools or redistributing pupils between classes may mean that a class loses a teacher. Other reasons for this lie in the rules for employment, because teachers who have been employed for many years will have priority to vacant positions, replacing, for example, a teacher employed for the duration when the older

teacher has had leave of absence, thus causing a change in teachers. (Unlike the US system, for example, a Norwegian class may have the same classroom teacher for at least four, often six years of elementary school, and a new teacher for the following three years of secondary school. This is fine if the teacher is good, not so fine if that class and that teacher somehow don't get along.)

Complaints from Children

School is one area in which children are as concerned as adults, and no wonder, since the children are the largest group of people in the school system, and a very eloquent group at that. Children's complaints relating to the school situation[51] range from 16.5% to nearly 25% of the annual total of children's complaints, while adult complaints on the same issue comprise 11.7-15.7% of the adult complaints. Children's complaints span a wider variety than adults', and are particularly numerous where conflicts with adults are concerned. The adults (teachers) in the school system complain to the Norwegian Teachers' Association; children complain to the Ombudsman (but the NTA and the Ombudsman agreed on many of the basic causes for the conditions leading to complaints).

Children have an everyday first hand knowledge about this segment of society, and they - at least in Norway - have no way (and no wish) to avoid it. Quite a few of the children's complaints led to issues of principle interest; for example, why the Protection of Workers Act applies to the adults but not to the children, why cases where pupils are the subject could be treated with less respect or care for the prevailing rules for public handling of cases than adult cases, why children themselves are treated in ways unthinkable where adults are concerned, and examples of unreasonable lack of equal rights or lack of human respect regardless of age.

Individual complaints may reflect more common problems and attitudes, but should not be interpreted to reflect general attitudes or methods of teachers in Norway. It must be remembered that the number of complaints, as compared to the number of children in the Norwegian schools, is very low.

Municipal School Plans

Declining numbers of children, combined with financial difficulties in the municipalities led to many proposals for closing schools. Many municipalities also built new schools, but these positive developments did not reach the Ombudsman.

When the Ombudsman supported the children and/or parents, the opinion often pointed to the need to have a school close by, because children use the facilities for free time activities. If the children need to take a long bus ride to get to school, they will be unable to participate in group activities

organised in the early evening (such as band practice, sports groups, scout meetings). The immaturity of children in traffic might also be considered. There may, however, be advantages; for example, the total number of children might allow for smaller classes (since a group of more than 30 pupils can be split into two classes, whereas 29 must remain as one class). But in that case a larger number of class rooms and teachers are necessary, so the financial gain might not be sufficient to warrant moving the pupils. Another possible advantage for the 13- to 16-year-olds is that the number of possible subject choices increases with the number of teachers. Obviously there were often local factors in the whole analysis; thus the Ombudsman would always mention the lack of such intimate knowledge in making a statement, pointing out the various aspects that needed consideration and emphasising that the needs of the children must be the main guideline for decisions.

At times the information received was incomplete, sometimes giving an impression that the needs of children were being used for other causes. In one such case a group of children wrote to complain that their school would be closed down. They dreaded moving to another school, partly because of the distance, partly because a highway ran between their home area and the school. The Ombudsman could very rarely inspect cases personally; but on this occasion a visit to the area was necessary for other purposes. The children had neglected to tell the Office that they had two pedestrian bridges and three tunnels by which to cross the highway safely, and also, since their 'old' school lacked a music room, a kitchen for home economics, and a gym, they were going to the 'new' school for these classes at least twice a week anyway.

In cases like this, when the Ombudsman did not support the children, the reply, in order to protect the children, was not sent to the local authority, but to the plaintiffs, unless local authority expressly asked for a copy. Parents, enraged by the lack of support, sometimes complained to the local newspaper, which mostly seemed to do more harm to their cause than good.

In most of these cases the outcome was unknown to the Office. When a decision to close a school was altered, it was difficult to tell how important the support of the Ombudsman had been, because hardly any other threat leads to such a total collaboration between teachers, parents and children or such a level of local activity.

Carl was 13. In his municipality the Council had decided to build a new school for the 13- to 16-year-olds, near the isolated area where they lived. To reach the old school the bus took a road where landslides had killed several people. The municipality then decided not to build the new school. Parents appealed to the Ministry of Education, which had told the municipality to build the school - to no effect. Carl wanted to know if the Ombudsman could help, but since the parents had then gone to court, the Ombudsman could not give an opinion (Instructions §7). The parents won the case, but still did

not get the school. The municipal Council instead redefined the school catchment areas, so that the area in question, after the new decision, belonged within the area of the neighbouring school. Carl and his friends pointed out a consequence of the campaign that the parents had not thought of. In telling the children how dangerous the road to school was, the children were very frightened indeed, not for themselves - the school bus only passed the landslide area twice a day - but for their parents, *each of whom* drove along the same stretch of road at least twice a day, to get to work or to shop.

Complaints of these types were so numerous and time-consuming that the Office declined to handle more of them in 1986-88, but would send copies of previous statements to the plaintiffs (see Instructions §5).

Transportation, Safety

Transportation problems had become an important issue even by 1982 and increased yearly, particularly in connection with the redistribution of responsibility for funding. In 1982 the problem was connected with letting even small children live at (or near) school during the week, coming home for weekend visits. The need for contact with their parents seemed less important than the expenses involved, but the municipality in one such case, after the intervention of the Ombudsman, reconsidered and decided to pay for daily transportation. In other cases distance made this impossible.

In 1982 the Ombudsman demanded that transportation should be the right of the child because the child has the right - and the duty - to go to school. Getting there should not jeopardise the child. Transportation should be free when:

- the distance to school is at least 2.5 miles
- transportation by boat is required
- walking to school is dangerous, because of traffic or due to weather conditions (snow dangerously narrows many roads during winter and daylight hours may be only three to four hours)
- the child has a handicap necessitating transportation
- there are other special conditions to consider (eg truancy).

This proposal did not lead to changes. So in 1983-84 two members of the Advisory Panel of the Ombudsman on my initiative, carried out an investigation in two counties, on children's experiences of transportation. The main results indicated that 25,000 children daily had problems connected with transportation - headaches, nausea or vomiting - symptoms lasting well into the school hours for at least a third of them. Many children, particularly the smaller ones with short school hours, had to wait for long periods of time to get the bus back home, since the ordinary public bus routes are used for school children. Twenty-five per cent of all Norwegian school children needed transportation every day, living more than 2.5 miles from school.

(Earlier investigations nationwide had shown that a third of all parents were afraid when their children were on the way to school.)

The report was published in 1985 and circulated to all county school authorities. Copies were frequently requested, particularly when municipal or county budgets contained proposals to reduce available transportation. The Ombudsman did not receive reports on the outcome of these cases.

In 1986 a new aspect of the transportation problem came up. To save money the counties were demanding that three children share a double seat in the buses. With their school bags there was obviously not enough space for three children, so 30% of the children stood in the aisles, greatly increasing the danger of accidents. The Ombudsman soon gained support from the Ministry of Education for changing this rule, but all attempts to get the Ministries of Transportation and Local Government and Labour to comply failed. A new angle was tried in 1988, after a serious accident had killed half a bus load of Swedish children. After that accident seat belts were required for tourist buses (since the accident happened on a scenic route much used for tourists), and the Ombudsman required seat belts for at least the front half of school buses. Such a rule would also make it impossible for three children to share two seats. But, perhaps for that reason, the new suggestion was unsuccessful, at least in 1989.

Opinions on transportation were repeated in all hearing statements touching schools during the years of 1982-89.

Physical Working Conditions

Physical conditions for children may concern conditions within the school property or the location of the school itself. Two girls told us that a waste incinerator was being planned next to their school (reminding us of the kindergarten planned between a waste disposal plant and a housing area 'since the smell makes this area uninhabitable for people'). In other cases highways were built straight across school playgrounds, paths for bicycles and pedestrians were lost when the road was rebuilt or expanded and traffic lights, crossing bridges or tunnels were not built as planned. Such complaints were, however, handled as 'Children and planning' problems.

Other complaints concerned buildings where the plaster fell off the walls, where asbestos was discovered in the building materials or where the sewage and water system froze in winter. Since all such conditions are unhealthy, these complaints were generally referred to the local health authorities by the Ombudsman or by the plaintiff on the advice of the Office. Children would have no problem getting the adults to complain on their own or on the children's behalf.

Difficulties did arise, however, when the conditions affected the children, but did not concern the adults, at least not strongly enough. In 1982 some children complained of a classroom with tropical heat, starting when the sun

came back in March. One teacher obviously enjoyed hot house temperatures, but others had tried for several years to get shading or air conditioning. The school was located practically on top of a main road with very heavy traffic. If the windows were opened, the children could not hear a word. Since the case had been handled by every municipal authority available, the Ombudsman sent the complaint to the Ministry of Labour, going straight to the top of the bureaucracy. The case was the first illustration that while the employees (teachers) can complain, using the Protection of Workers Act, no such legal grounds for complaints exist for children, even though the children are more numerous and no less sensitive to working conditions than the adults.

The difficulty in finding some authority responsible for conditions which might be threatening children's lives was demonstrated by a school located near a chemical plant producing poisonous gasses. A spill or leak of the gas would be so dangerous that the municipality had denied permission for building a harbour for small private boats in the area, farther from the plant than the school was located. The problem of planning for action if such an accident occurred had been presented to the local police, the Commission for Protection of Workers, the county school authorities, the local school board, the local health authorities and the Ministry of Education. The ministry had asked the State Labour Condition Council, the State Explosives Commission, the Directorate for the Protection of Civilians (in war) and the State Control Board for Pollution for advice. The Ombudsman asked the Ministry for Local Government and Labour for help, but this was only the first step. The next ones, taken as each previous attempt seemed to lead nowhere, included the Storting, several Ministries and Directorates. In 1985 the Ministry of Education suggested that the Ministry of Environment order the factory to make such an action plan, with reference to the Pollution Act. This was the final solution, eight years and 19 authorities after the question was first raised, three years after the Ombudsman became involved. By then the municipal Council had decided to increase the number of pupils in the school by 50%, while still forbidding the building of the small boat harbour.

Three boys in Tromsø in northern Norway told the Office that there had been plans to build a new wing to their school, connecting the main building and the building housing the swimming pool. The plans were now threatened due to the expenses involved. Realising the special needs for considering the climate in that part of the country, the Ombudsman turned to a climate expert, who pointed out that without the new wing, the play ground would be impossible to use. The wing would protect the playground and provide an 'indoors-outdoors' area, in addition reducing the cost of heating the swimming pool building. On the basis of the Ombudsman statement, the local authority decided to build the new wing. The case drew attention

to the special requirements for play areas as well as buildings for children close to the North Pole.

These facts were later used in opinions about space requirements in kindergartens. In 1989 a national prize was awarded to a kindergarten built with more indoor and outdoor space and a protected playground, without increasing the cost of the building.

A special problem area with regard to physical conditions concerns children with handicaps. Peter, when his class left the elementary school, was told that he could not join his class in their new school. Peter, the victim of a progressive muscular disease, was a wheelchair user, and the school did not have the necessary lift. The local authority decided that installing a lift would be too expensive. The Ombudsman, pointing out the future need for a lift, asked the municipality to reconsider. When they did not, the story was, with Peter's permission, sent to the local newspapers. The Norwegian Association for the Handicapped reacted strongly, notifying the local authorities that a lift could be installed for less than five per cent of the calculated price. Then the lift was installed and Peter went to school with his class mates. The Ombudsman asked the Ministry to investigate possibilities for helping to finance rebuilding of older schools to accommodate physically handicapped children and to circulate information on how best to do this.

The Needs of Children, the School Day, and the School Year

A total revision of the national guidelines for educational content in the compulsory schools (the 'School Plan') was proposed in 1984.

Statistics showed that increasing numbers of children could no longer get preschool social experience at home, had both parents working and therefore needed more adult supervision and care outside the home, experienced familial split-ups, and were exposed to the information and attitudes learned through the mass media, often contradictory to the values and morals of parents and teachers. The Ombudsman criticised the plan for not taking the new needs and situation of children sufficiently into account. Nor was there any indication of recognition of the very important fact that children themselves are a very vital, dynamic element in the school, eager to learn, eager to cooperate, eager to share responsibility for each other and for the entire learning situation. This had been demonstrated time and time again by children who called the Office, and by the natural way many kindergarten children took their share of responsibility, gaining a very important feeling that they were in truth necessary, valuable elements of their small society.

The Ombudsman pointed to the need for expanding the school day for children from the first grade and up, to five to six hours per day. Well aware that working hours for parents are often eight hours, the Ombudsman did not suggest an eight-hour day for children, but rather measures to enable parents to work flexibly, so that only one parent at a time was away outside

the five to six hour school day. The family needs time to be together, as a family, and a longer school day might leave little time for family activities and a shared responsibility for family affairs, such as housework, leadership in free-time activities (for the adults), participation for the youngsters, or for joint projects, for example, in their neighbourhoods. The Ombudsman emphasised the interrelationships between school system, the labour market, free-time activities, the needs for kindergartens and nursery schools, and the transportation systems, the inadequacy of the latter often leading to unwanted (and unnecessarily?) long periods of absence from the home for parents.

On the basis of these points of view the Ombudsman also participated in the public discussions of 1987 and 1988 on the possible expansion of the school day, insisting again that the needs and capabilities of children should be determining factors, rather than primarily the needs of adults or the labour market.

In 1984 the Ombudsman also raised the question of school vacations. Norwegian parents have three weeks summer holiday, school children eight to nine weeks. Children with divorced parents, spending three weeks with each parent, still have three weeks on their own, while other children may have five to six weeks holiday in addition to the time spent with parents. Some parents hardly have holiday time together, if they split up to cover the children's holiday. The problems are further complicated by the fact that many municipal leisure-time activities, like public pools, close during the three week 'labour holiday' in July.

The Ombudsman did not at that time suggest a shorter summer holiday, but wanted to raise the issue, asking the Ministries of Education, Health and Social Affairs, Cultural and Scientific Affairs, and Consumer Affairs and Government Administration to consider the situation and see if the present solution was the best one. A pilot study, carried out for the Ombudsman by the Institute of Social Research, indicated that a surprising number of children did not spend holiday time with their parents at all, while the expected low number of children spent vacations with grandparents and other relatives. Surprisingly few went to Scout camps, sports camps etc. An explanation may in part be that the survey was carried out in February, a long time after the last holiday and a long time before the next one. The whole question has rested since 1985-86, due to the whole discussion of a longer school day, other activities within school hours, etc.

Mainstreaming

All children have the right to an education suited to their abilities and needs, preferably within the ordinary school system. A telephone survey by the Ombudsman to the county school authorities in 1983 disclosed that only half of the money needed for special help could be covered by the existing funds.

The number of recommendations made by psychologists and special education teachers were much higher in some counties than in others, but closer questioning revealed that in the 'low frequency' counties the specialists had been told not to exceed last year's budget. So they did not recommend or apply for more than half of the actual need. On these grounds the Ombudsman protested (to no avail) against the proposed reduction of the national budget for this purpose in 1983, writing to the members of the Storting directly. In later years no special funds were allocated, the funds considered necessary being included in the general funds transferred from national to local levels.

In 1986 two cases of 'special education neglect' were brought to court[52] by parents, partly to clarify whether the right to 'enough' special help was unconditional, partly to clarify whether any administration had the right to cut such help while maintaining the standards for 'ordinary' children. The court ruled that reduction of standards should not be at the expense of children with special needs, even if they must suffer the effects of general reductions, 'as all children must.'

Do Rules and Rights for Adults Apply to Children?

In school children learn about society's values and system of justice. Schools, by example as well as by teaching, demonstrate society's views on general human and equal rights. Indirectly, the school communicates society's views on the value of children, as individuals, as a group and as 'consumers' of the system within society which (in collaboration with parents) is responsible for developing the future adults of that society.

Inger, ten years old, complained of a substitute teacher who had entered the class, the pupils silent and expectant, with the following remark: 'You should all know how lucky you are that I am here, because I know very well that this class is so impossible that no one wants to substitute here.' Later that day the teacher had filed a report to the principal, complaining that the class was unruly and uncooperative . . . For once no action was required, Inger just wanted to tell the Ombudsman the story, and she added triumphantly that the principal instead of reprimanding the class, had asked for an apology from the teacher.

In Berit's case action was warranted. Berit, 14, was accused, in class, of stealing, even after it had been proved that she was not even in school on the day the theft had occurred. The Ombudsman contacted the teacher, who had denied the parents a meeting about the matter, and got his confirmation of the episode. The Ombudsman then suggested that an apology was due, in class, to which he agreed.

Knut's case caused a different kind of action. Knut, also 14, was blamed for the disappearance of a teacher's bunch of keys. When the keys were not found, the teacher went to the police, and was there advised to drop the

matter at least temporarily, in the hope that the keys would turn up or the culprit confess (if there was one). Instead the teacher took Knut and two or three of his classmates for interrogation at the police station, without warning the parents and against the advice of several of his colleagues. The staff split over the handling of this case. About half of the teachers threatened to leave the school, saying they did not want to work in a place where pupils were treated as inferior to adults.

Feeling that the rights of the pupils to fair treatment had been infringed, they filed a complaint in the county school board and asked for an opinion from the Ombudsman. The Ombudsman agreed, pointing out that ordinary rules for fair treatment apply to young people and that the teacher (and the police) had broken the rules for police investigation of minors. The school board, partly based on the opinion of the Ombudsman, criticised the handling of the case and demanded that the teachers, as a group of colleagues, find other ways of expressing and solving the interpersonal conflicts that had arisen during the case.

A group of 12-year-olds complained that after a conflict (also of suspected theft) the bell rang for fire practice, and the class was told to go outdoors, without their warm coats on. The teacher then told them that they would have to stay outside until the culprit had confessed, in minus 20 degrees Celsius. The class complained to the principal, who kept the entire class after school as punishment for 'opposition to the teacher'. The children then turned to the Ombudsman, asking if group punishment was really legal, a difficult question. There is nothing specified in Norwegian law one way or the other. So this was actually a moral question, no less difficult, since group responsibility or group solidarity can be seen as a valuable social attitude. The Ombudsman suggested that the children perhaps could solve this issue on their own; 12-year-olds are very fair and do not lack the ability to make moral judgments. If they could put pressure on the culprit to return the stolen goods, perhaps the teachers would be willing to drop the issue. The next question was easier: would the teachers all have been punished if one of them had been suspected of some misdemeanor? Asked if they wanted a written statement, the children turned down this offer, wanting to try to solve the conflict on their own. No further action was then possible nor advisable (see Instructions §2).

Eric, 13, was an unruly teenager. A meeting held by the principal, with his teachers, the school psychologist and the school social counsellor decided to move him to the other class on his level. But Eric did not want to move, so it was decided that he should be given a chance to improve during the following two months. The next day, however, when Eric came to school, his classroom teacher immediately went to the principal and threatened to leave the school and not return until Eric was removed from her classroom. At this point Eric came to the Ombudsman, who as a first step advised a complaint

to the local school board, on the grounds that rules for handling such cases had been broken. A complaint should also postpone carrying out the decision until the complaint had been investigated. The school authority, however, turned down the postponement, at which point the Ombudsman for Children asked the Ombudsman for Public Administration to consider the case and give an opinion also in regard to the question of whether rules for handling cases and complaints of adults should also apply to cases of minors.

While the Ombudsman for Public Administration did not believe that the outcome of the case would have been altered if the rules had been followed, the school's administration, the local school administration, and the local school board were criticised on several points for faulty handling of the case. Such statements of the Ombudsman for Public Administration carry a great deal of weight. Since the case also illustrated the lack of knowledge about the rights of pupils in the school system, the Ombudsman for Children also asked the Ministry of Education to supply information about correct case handling in the Ministry's *Handbook for the Norwegian School*. Eric, who in spite of (or due to) the support received from two Ombudsmen, did not feel very welcome in his old school, asked for (and received) a transfer to a different school, not to another class, a solution that turned out to be a good one for him. The case was published in the Annual Report of the Ombudsman for Public Administration as well as in the annual report of the Ombudsman for Children.

Examples such as these demonstrate that even within the school system children are treated in ways that would be unthinkable or intolerable where adults are concerned. What boss, in working with an unknown group of employees, would expect cooperation if his opening statement expressed distrust of the group? Which group of adult employees would accept mass punishment on the mere suspicion that one of them had done something wrong? Would any adult stay in a situation, without even an apology, when publicly accused of a crime he had not committed?

Other complaints raised other issues of principle concern; for example, that the rights of adults could override the needs of children. Many complaints were similar to this one, from a fifth grade class: 'we have a teacher we like. She is the eleventh teacher we have had during the last four years, but she has been with us the whole year. And now we will lose her, because an old teacher we don't know is coming back. They say the old teacher has more right to a job than the new one. But we want to keep the one we have!' After consulting with the Norwegian Association of Teachers, the Ombudsman sent a general statement to the schools involved, pointing out that the well being of the pupils, particularly when they had been exposed to many changes, might be one of the 'special circumstances' which according to the

School Act allowed a school or school board to waive the 'experience and age' rule.

Paul was 14. In a conflict with his teacher, his teacher forced him against a wall and held him, calling for assistance from another teacher. Paul got very angry and hit the teacher. The teacher then called the representative of the local labour protection committee. The Protection of Workers Act says that if there is a threat to the safety of employees, work may be stopped until the threat is removed. Paul was then defined as a threat, expelled from school, and work was resumed.

The same procedure was followed when John, eight years old, threw a chair across the classroom. Several similar complaints were made to the Office, from parents as well as from children. The Ombudsman raised the following questions: who should represent the pupil? Could this law really be used to expel children, denying them their right to education and fair treatment and to the help they needed to treat the underlying reasons for their behaviour problems? What if their behaviour was really a reaction to a situation created by the teacher? Was it then fair to remove the child, and not the teacher? Why does the Norwegian School Act have a whole chapter on the rights of teachers, who in addition, as employees of the municipality, are protected by the Protection of Workers Act, while no similar legislation exists for the children? The State Workers Protection Control, the Ministry of Local Government and Labour and the Ministry of Education in 1983 all answered that the law gave the school's elected representative the right to stop work in the classroom if a pupil threatened or physically assaulted a teacher.

The Ombudsman in 1984 again raised the issue with the Ministry of Education. Disciplinary problems must, the Ombudsman stated, be solved within the rules and legislation of the school system, with early help from the psychologists and other helpers, so that situations leading to this kind of conflict could be solved and prevented. The ministry, late in 1984, maintained that while the Protection of Workers Act might be used in particularly difficult situations, the responsibility of the elected representative concerned the teachers only, while responsibility for the pupils must lie with the school principal. The elected representative therefore did not have the right to close schools or expel pupils.

This clarification, while important, caused reactions from the National Association of Teachers. The inadequacy of the clarification was demonstrated in 1985, when a group of pupils had a conflict with their teacher, the school feeling that the solution lay in 'making the children behave'. The pupils (and their parents) felt that the teacher's behaviour was at least partly the cause of the conflict. The elected representative was involved to protect the interests of the teacher, even though no physical threat existed. The Ombudsman pointed out that with the use of the Workers Protection Act an

entire school could be closed, and that this Act was not appropriate to solve interpersonal conflicts. The State Workers Protection Control then agreed: the Act could not be used to solve conflicts between employees or between employer and employee, but is aimed at the physical dangers of a working place.

The Ombudsman pointed out that pupils are not pieces of machinery, and that they have human rights that cannot be neglected. The behaviour problems of a pupil may be a signal of a more complicated problem in the classroom, in which the attitudes and behaviour of the teachers are important elements. Again the Ministry of Education and the Ministry of Labour clarified, the Ministry of Education by stating categorically that the Protection of Workers Act could not and should not be used against or in a way harmful to pupils, the Act having no use at all in relation to pupils. The Ministry of Labour stated that while the Act could in principle be used concerning issues relating to pupils' behaviour in general, in no way could it be applied to the behaviour of individual pupils, the problems with whom were to be solved within the rules and procedures of the school system. The respect for the integrity of each pupil cannot be set aside, even in the interest of protecting employees' (teachers') rights.

The interpersonal conflicts and how to resolve them without infringing the rights of the children caused the Ombudsman to raise the issue of the adequacy of the school psychology and counselling services in the schools. I had been appointed leader of a public commission to evaluate this service some months before becoming ombudsman. The entire commission agreed in 1981 on a demand for a structural system with psychological, educational and social expertise, to be able to give children, their families and the teachers the help needed. The majority (seven of the nine members) recommended a continued basis in the school system, since the School Act was the only legislation giving children the *right* to such professional help. The minority recommended incorporating the school counselling system in the municipal health and social welfare system.

In revising the School Act, however, the demand for a multi-professional service was weakened and many municipalities, to save money, cut down the number of professions. Others decentralised cooperative services (which by serving several municipalities could keep up the number of positions needed to secure the professions). The Ombudsman therefore insisted that the county school administration should be empowered to insist on a multi-professional service in any attempts to reorganise the service in one or more municipalities. This need not mean that all school-based services must have three professions, but that the different professions should be available to the schools, a step in the direction of the commission minority. This claim was incorporated in the regulations of the School Act and has turned out to be useful. The Ombudsman has also pointed out that a better

cooperation between the school, health and social welfare services may be achieved by incorporating the school system's professionals in a total municipal service, but that this should only be done if the new Social Services Act legislates the children's own right to professional help from psychologists, psychiatrists and social workers in addition to the special education teachers in the schools.

In 1984 the Ombudsman, against the background of the many school cases already seen wrote a general statement to the Ministry of Education concerning the children's situation in the School Act and in the schools. The national responsibility for securing equal (although not identical) education for all children was weakened because the financial responsibility was being transferred to the municipalities. Therefore control through legislation became increasingly important. But the School Act did not give the pupils clear rights. Some rights were made conditional, for example, the right to transportation or special education, which depended on local funding. In other connections rights are unclear. School rules differ from place to place, while the Penal Code clearly states the penalties for any kind of adult misdemeanor. What kind of punishment is used for what kinds of child misdemeanor varies; for example, expulsion. The Ombudsman wrote a statement in 1983 to the Ministry of Education, combining and comparing the psychological and legal aspects of expelling pupils. One of the conclusions was that expelling a pupil must be given individual consideration, because the effect would differ from child to child, depending on age as well as family and social situation. Even so, the Office did feel that the reasons for expelling a pupil should have some similarity nationwide.

Even compulsory education might be denied some children, as illustrated by Kaia, 11 years old, who told us that in her school, the 10- to 11-year-olds did not get English lessons, although English is compulsory from fourth grade on. The municipality did not have the funds for a teacher.

'It's Not Fair!' - Or Is It?

Many children complained of perceived injustice because the school had different rules for children and adults. Teachers were allowed to smoke or enjoy sweets (eg throat lozenges) in school, forbidden for children. Children had to go outside during recess, even in cold so severe that carpenters were not allowed, by law, to work on outdoor jobs, but the teachers stayed indoors, 'even though we are sure they could use some fresh air and some exercise too!' said the children.

Some of these problems were solved by the schools when the Ombudsman notified the school of the complaint. Teachers are actually quite reasonable. In other cases the Ombudsman asked the municipal authority to investigate the rules in the different schools, so that the differences between schools as well as between children and adults were at least minimised. A

third group of complaints was answered by pointing out that there are differences between children and adults, and that some of the rules are actually good for the children, for example, against smoking, or the rule some local communities had, forbidding school children to shop in school hours. This prohibition could have different reasons, for example, that the children had 'junk food' for lunch instead of the whole-wheat sandwiches from home, or that they did not come back to school in time for lessons. Crowding or the suspicion of shop lifting were, however, not accepted as good reasons by the Ombudsman, since this would or should apply to adults as well. There were no grounds for discrimination on this account. Student councils very often managed to find out the reasons behind the rule, negotiate for change if the reasons were unacceptable or if change in behaviour (eg coming back to school in time) could help, and try to improve the understanding of the rest of the student body if the rules were reasonable.

CULTURE AND CONSUMER ISSUES

Fundamental Considerations

Children are consumers, actually a group of consumers being paid more and more attention to by marketing interests. The declining numbers of children cause concern for manufacturers and advertisers: can they capture the young when they are young, to ensure buyers for the products in the future? This means that children and young people are under pressure to buy, but it does not mean that their basic needs are considered, nor the vulnerability they may have when exposed to advertising techniques planned 'to hit them below the belt.' The parents are also targets for advertising, being told that 'this product is so good for your child!' or 'If you really want your child to develop properly, you MUST provide this product!' The truth of such statements can indeed be dubious. In addition, important facts, for example, dangerous ingredients or hazards of use, may be withheld.

Children's ability to judge products as well as what is said about them develops gradually, but regardless of that, children should not be exposed to temptations of wanting or buying dangerous or unhealthy products.

Television advertising is only one part of the entire television scene, which includes videos as well as programming. Much of this is unsuitable, some of it even harmful, for children. The collected knowledge may be summarised as follows:

- The values, attitudes, and behaviour of children is affected by the mass media in good ways and bad. Audiovisual aids can be valuable in education, but auditory and visual mass media can have negative consequences, particularly for the youngest children, when used excessively for entertainment or without proper control, for example, when children are exposed to or use mass media produced for adult consumers, particularly if the children watch without adult company.

- How strong the effects of mass media will be depends on the quality and quantity of the mass media consumption. Research indicates, for example, that children can be harmed by watching large amounts of television irrespective of the contents of what they are watching. The effects of mass media will also depend on individual personality factors, such as intelligence, needs, temperament, and age. The general level of adjustment and knowledge of the child is also important.
- Children are more vulnerable the younger they are. At the age of 10-12 years their general frame of reference will allow them to get a realistic perception of contents in media information produced for adult consumers.
- Children will use what they learn from mass media (also from entertainment programmes) in their interpretation and understanding of real life experiences. Information from the press, newscasts in television etc. can lead to misinterpretations, expressed when children, for example, tell their parents not to travel by air 'because all 'planes crash or are hi-jacked'. Nightmares and anxiety reactions may occur or children may develop a general depression or a pessimistic view of the future.
- The behavioural effects of mass media may include:

  a) the effects of violence and aggression, increasing such behaviour and such ways of solving conflicts,

  b) the increase of anxiety and pessimism as a consequence of anxiety loaded information or entertainment.

Complaints and Problems

This area includes the mass media, children's own cultural creativity, culture for children (eg books and films). As consumers, the problems that arise with dangerous products (toys, as well as, eg household products) are considered here. The home is one of the 'products' used by children, so hazards of housing are also included, indicating that some of these problems are in the 'grey zone' between housing and environment. The 'consumption' of private, free-time activities and of the labour market are in the 'grey zone' between 'consumers' and other areas of society.

The number of complaints in this area remained relatively stable, with complaints about TV and video and dangerous products practically splitting the entire case load.[53] Complaints in this area constituted approximately 10% of all adult complaints, 12% of the children's complaints. As in other problem areas the public debate brought some increase, while new legislation (eg the Film and Video Act in 1985) brought a lull.[54]

The differences between the children's complaints and the adult's complaints can be found by looking at the cases, not at the statistics. When children complain about TV, they want *more* - more children's programmes, more cartoons, more nature programmes - or they have been frightened by violence, the news programmes, the murder stories. Adults want *less;* fewer adult films to be broadcast when children are watching, less violence in the news. Special programmes are criticised for possible harmful impact on the younger generation.

The other difference was that children complained of consumer-linked problems unknown to the adults, in the sense that since adults are not subjected to the situation, they have no reason to complain. Children - but never adults - are offered sweets in return for refund bottles. Children are passed over in favour of adults waiting for service in stores, post offices or banks. Sometimes adults simply have not realised the situation which brings about the child's complaint, but are very willing to change it when they realise what is happening.

Mass Media, Video and Television

Problems connected with video were actually the first major issues brought to the Office, before the Ombudsman Act went into effect. It was just not clear at that time how important and dominating these problems would be. In late August 1981, two mothers - separately - called to ask if forcing children to watch pornographic videos might not be called child abuse. The Ombudsman said 'yes', and the individual complaints did not require further action.

The Council of State appointed in September 1981 established a new Ministry for Cultural and Scientific Affairs. The Minister announced that the NRK monopoly was to be 'cracked', and new channels made available. Videos (both machines and films) boomed, with sales starting to peak during Christmas 1981.

The cases concerned with mass media might be divided into three main groups, all of which started in 1981 and 1982 and ran through the entire period from 1981 to 1989. With a few exceptions the various problems met with little success in attempts to modify the situation.

- The public national broadcasting, particularly television
- Videos
- Other mass media, particularly the press.

The two first have much in common. The Office collected all the research it could find on the effects of 'the small screen' on children. A summary of available research evidence was the basis for lectures all over the country and statements in many connections.

Public National Broadcasting

Only one channel broadcasts TV in Norwegian. The 'monopoly' does not mean censorship; the right to free speech, free opinions etc. is highly valued, although 'excessive' violence and swearing, pornography, and maligning are not allowed.

Individual complaints or demands concerning programmes were passed on to the national broadcasting corporation for replies, but the Ombudsman made a note of the contents, which in many cases were included in more general issues raised by the Ombudsman.

The first flood of complaints to the Ombudsman's Office happened during the World Cup in 1982. In one game the score was tied when the time was up. Extra playing time started at 6 pm, so children's TV was dropped. The Ombudsman, reacting to the numerous complaints, asked the NRK to avoid such disregard of children in favour of adults, and NRK promised to try. After that, while children's TV might be shortened or slightly displaced, sports events have never caused cancellation of the children's programme.

Attempts to modify the newscasts met with less, in fact no success whatever. NRK was asked to give warning when the newscasts included particularly violent scenes, for example, the murder of a President shown in slow motion at least three times in the course of half an hour. NRK said that this must be up to the anchor persons, and only one (a woman) ever gives such warning. The next attempt, started in December 1984, asked NRK to move the main newscast, broadcast at 7.30 pm, to 8.30 pm or 9.00 pm. Nine children, nine years old, wrote: 'We go to X school, in third grade. We want you to help us so that NRK will move the afternoon news and the main newscast. When we watch Children's TV we don't like the afternoon news, because we switch on the TV and get the news when we are waiting for the Children's programmes. Children younger than us like it even less than we do. We think the main newscast should be at 9 pm. We want a news programme for children, to tell us about the things we want to know. It is not fair that only the adults can decide! We hope you can help.'

In 1985 the Ombudsman got the support of 35 non-governmental organisations, with a total of three million members, backing this request. NRK replied that the news (or the more violent scenes, as suggested as an alternative by the Office) could not be postponed till the late evening news because of the elderly, who go to bed early. Also, children need to know what the world is like, and according to NRK's own research office only a minority (45%) of the parents with small children wished to have the programme moved, a statement seriously questioned by the Ombudsman. The Ombudsman pointed out that children under the ages of seven to nine do not learn 'what the world is like' when they are frightened by the excerpts shown in the news. Work with this case was dropped as useless after 1986; but the problem as a case could not be closed, since even after that the Office often

received requests for help in moving the newscast. These plaintiffs were given information about previous attempts, information which was also included in hearing statements of later years. The cause, however, was considered lost in 1986-87.

The Ombudsman also in 1982, 1983, 1984 and 1985 asked for special news programmes for children and an educational programme for parents. NRK in 1986 wrote that they hoped to start a news programme for children in 1987. It had not appeared by December 1990. The programme for parents on child development and child behaviour was repeatedly turned down, because 'we have done it before' (winter of 1975, a very popular series of ten programmes) 'we have no free time slots' (free time was found for teaching bridge, training dogs, cooking, gardening, winter driving, mountain behaviour in winter, boating . . .). The last suggestion from the Ombudsman was a 'Panel for Parents', in which the Norwegian Pediatric Society, the Norwegian Association of Child Psychiatrists, and the Norwegian Psychologists Association had promised to provide experts, to answer questions from viewers. Two lawyers had also promised to participate. The idea, said NRK, was interesting. And that was that.

Programmes for parents did, however, appear in August, September, October and November 1989 - actually at least two series, one on 'Children in the Way' (about conditions for children), one on the Convention on the Rights of the Child. One of the surprising factors is the difference between the views stated by NRK (no time, no interest) and their actual programming, where programmes about children have appeared increasingly.

Early one Saturday morning a film was broadcast, which was obviously unsuitable for children, who (with parents sleeping) were just as obviously the main audience. The Ombudsman asked to review it with some of the experts of the State Film and Video Control, who said that they would have set an age limit of 16 years, if some cuts were made. The Ombudsman raised the question of indicating age limits for films in national TV. Films shown by NRK can be defined as public (ie shown anywhere) or private, since they are mostly viewed at home. Many parents would like to know which age groups a film is suited for, so the Ombudsman asked NRK to inform the public of the age limits set if the film had been shown in public. 'Not all films have age limits' was the reply, and 'some are so outdated that the age limits are of no help now. Besides, if children know the age limits, they will certainly want to see the ones forbidden to them in public, a 'fruit from the forbidden tree' reaction.' The Ombudsman still believes that information would be helpful for parents. Even if - as NRK told us in connection with the daily newscast - 'it is the parents' responsibility to monitor what their children see', parents are denied information enabling them to monitor on the grounds of factual knowledge. Why make monitoring more difficult than it need be? And with the increasing number of channels (by cable TV and

parabola antennas, now more and more common), why not have ONE channel which parents can safely let their children watch?

The hearing statements of the Ombudsman concerned the effects of mass media policies for children, as well as the question of advertising, which was discussed in connection with the proposal for local radio and television stations and a second national station in 1984/85. The pressures on children, the attitudes and values transmitted by advertising, particularly combined with young children's lack of ability to judge the truth and reality of what they see, were the main reasons for objecting to advertising on principle. A secondary option was to have no advertising before 9 pm or in direct connection with programmes for children, nor advertising of products for children. The question has still not been decided.

Videos

Ingunn, nine years old in 1982, came home from school pale and shaken. One of her classmates had invited another girl, Berit, home to see 'the film daddy has locked away'. 'Berit came back and she cried and cried and cried, she couldn't stop and she couldn't tell us about the film.' Schools reported that teenagers, particularly the ones not doing so well in class or the unpopular ones, stayed home to watch video, or used the 'bait' of video in the way candy or money was used before, to 'buy' companionship. Parents were shocked to find that even films they had seen in public turned out to have contents on video not shown in the cinemas, nor described on the cover of the video, different versions altogether of films which they believed would be suitable for their young children.

Increasing numbers of survey reports from all over the country indicated that these were common problems. In 1982 10% of Norwegian households had a video recorder (many to supplement the only TV channel available to them), in 1988 35% had one. But children and teenagers reported that they could watch videos whenever they wanted, by going to friends and neighbours, or even by watching demonstrations in stores. Children age 12-16 were the biggest consumers. They preferred action and violence films, particularly the boys - but the girls went along. Mostly they watch video without parental guidance, partly because most video watching happens when parents are absent; for example, at teenage parties. Videos are much cheaper than going to the films, three to four films per evening is not uncommon. Exceptional users can see 50 films from Friday afternoon to Monday morning; most teenagers see at least three films per month. There is no significant difference between rural and urban youngsters, nor between different socio-economic groups, as was believed by some politicians in 1982.

In addition to many lectures, the Ombudsman in various ways tried to reduce the possible negative effects of the free video consumption. In 1982

the Office proposed that the Ministry of Consumer Affairs and Government Administration prepare a booklet for parents on the possible effects of video. In 1984 the Ministry of Health and Social Affairs published a booklet on Children and TV. In statements concerning the proposal for a new Film and Video Act (1983-84) the Ombudsman supported proposals for new age limits for films and videos, suggesting that all videos for persons under 18 be given the same kind of control and age limits as films for public use, and the proposal that all distributors of video must have municipal permission to sell or rent videos. A State Register for Videos, which would contain information about all videos entering the country, was not sufficient, since the mark set on videos by this register would only indicate that the contents of the video were not illegal in terms of the Penal Code restrictions against pornographic or excessively violent content. Consumers mistook this marking as a seal of quality. The Penal Code was not effective, as demonstrated when in 1984 the Ombudsman in collaboration with an action group against video violence asked the police to prosecute distributors in four municipalities for distributing a video obviously too violent to be legal. The Ombudsman wanted to see whether the police in different parts of the country would reach the same decision or whether young people could get different degrees of violence, depending on where they lived. All four cases were shelved by the police 'for lack of importance of the consequences'.

These viewpoints, and a suggestion that no person under 18 should be allowed to rent videos (with reference to the Guardianship Act), were repeated in many connections during 1985-88. When the Storting debated the Film and Video Act, it was hoped that all videos for people under 18 might be controlled, because the Christian Democratic Party had voted to support the Labour Party platform decision on this point. The Labour Party, however, did not vote for its own programme. Instead, municipalities were encouraged to strengthen local control and establish their own age limits if they so wished. Some municipalities have an 18-year age limit, some have rules stating that no person can rent a video with an age limit above their own age, but most of the municipalities do not have special rules at all. Even with an age limit in one municipality, the youngsters can probably get what they want by crossing into the neighbouring municipality.

With the knowledge that municipal authorisation may be withdrawn, at least there is some hope that the worst examples of illegal distribution may be weeded out of the market. An important factor is the heightened awareness amongst parents and the public in general about what videos may contain and their possible effects on young people.

The Press

In relation to the press, the Ombudsman supported stronger measures against pornography, suggesting in 1982 that such measures should be

considered by the Ombudsman for Consumer Affairs and the Consumer Council. In particular, the Office asked the Minister of Justice to control distribution so that the children themselves were not exposed to pornographic material, especially material containing child pornography and implicitly expressing the opinion that sexual abuse of children was acceptable. This opinion was expressed to the Standing Justice Committee of the Storting in 1984 and repeated in a hearing statement to a proposal for restrictions in the Penal Code in 1985, in which child pornographic material was categorically forbidden for sale.

The other main problem raised by the Ombudsman in relation to the press concerned the use of pictures and stories of recognisable children, in connection with, for example, murder cases and child welfare cases. Marie's father killed her mother when Marie was two years old. When Marie was five years old, her grandmother - with much publicity - won custody; and Marie again was repeatedly presented in newspapers and magazines. When Marie was eight, a weekly magazine had a 'follow up' story. Marie - and her cousins, aunts and uncles - could go nowhere without public attention and comments. Marie's father, while in prison, had custody until the court gave custody to her grandmother. He therefore was legally in a position to grant or forbid publication of photographs of his daughter. But the photographers had not asked for his permission, but only the permission of grandmother, who was not legally in a position to give this permission.

Kari, eight, learned from the newspapers about the suspicions of crime on the part of her father, when the newspapers presented 'her' story in connection with her mother's allegation of maltreatment by the local child welfare board.

Mass media presentations of child welfare cases, as sensational 'sob stories' and 'scandals', give the impression that the child welfare system 'kidnaps children for no reason, even in the middle of the night'. Parents, frightened by such stories, are reluctant to ask for help when needed. Local members of the child welfare board, dreading headlines and public criticism, particularly in transparent small communities, may be reluctant to make decisions. The National Press Council at first insisted that social workers and others, bound by confidentiality, would not give their evaluation of the case, so the stories had to be published in this way. But parents, parties in the case, have access to all information, so the evaluation is available to reporters if the parents are willing to submit it. Pointing this out to the National Press Council, the Ombudsman asked for reconsideration of the rules for the press in presenting such cases. The National Press Council in 1987 changed the rules for the use of photographs and the presentation of cases on individual children, providing better protection for the children involved. Recognisable pictures of individual children were in these cases no longer permitted, and a special rule 'Take special care where children are concerned' was added.

Books, Films, Theatre, Magazines

There were very few efforts on the part of the Ombudsman concerning books, films, theatre and magazines for children, except supporting initiatives for not only more culture for children, but also opportunities for more culture *by* children. The only other question of principle interest concerned age limits, as referred above (see section on video). The age limits suggested were 5, 10, 15 and 18 years, supported by the Ombudsman. We did not, however, agree to the practice of keeping 'old' age limits on films controlled before the new Act went into effect. These age limits were not necessarily 'wrong',but the effect was that by keeping both the new and the old limits, there was a jungle of ages: 5, 7, 10, 12, 14, 16 and 18. And the new rule that children could attend a film with an age limit over their own age when accompanied by parents, meant that a five-year-old could see a film in the 10 to 15 year age group, but not an 'old' film for seven-year-olds.

Simen, ten, wrote to complain of the age limit (12 years) set for the movie *ET*. But he understood that the choice possible for the State Control was either (at that time) 12 or seven - and he understood why the State Control did not find the film suitable for seven-year-olds. Marie, nine, complained of the age limit (again 12) for *Amadeus*, referring also to the advertisement:' A film for the whole family - bring them all!', insisting that she belonged to the family and therefore could see the film. The person responsible for the advertisement claimed that she disagreed with the age limit and therefore had opened it up for younger children. She was asked how she could expect children to respect limits set on this and other occasions if adults demonstrated their disregard and wanted to change rules by breaking them. She finally modified the advertisement: 'A family film!'

Products, Dangerous or Otherwise Doubtful

Some of the proposals from the Ombudsman regarding hazardous products might equally well have been handled under the heading of accident prevention in general. This is an important area in Norway because the accident rate for children is so high (see p. 53). The efforts of the Ombudsman were specific as well as general, supporting proposals of others, in particular the State Pollution Control, which - odd as it may seem - is the authority on product control. During the years this Control suggested many measures aimed at increasing the safe use of toys and equipment for children.

On the more general level the Ombudsman in 1985 suggested collaboration between several ministries in a group for accident prevention for children. An action committee of experts appointed by the Ministry of Consumer Affairs and Government Administration in 1981 had finished the first phase of its work by 1985 and was then requested to suggest measures for safeguarding children. But the staff had then been reduced from four full-time to one part-time position. A new advisory group was appointed in

1985-86, with the Ombudsman as vice chairman, to work for accident prevention for children. The group consisted of representatives of four ministries, the Directorate of Health, the State Institute for Public Health and a great number of non-governmental organisations, such as the Norwegian Housewives Organisation, the 'Safe Traffic' organisation. Recommendations were given as an on-going process, fed into several public campaigns on accident prevention in general. One of these campaigns was launched in 1988 with a demonstration outside the Storting, shortly before the budget debates, to focus interest on accidents involving children. The Ombudsman had all the organisations involved in the advisory group sign a petition to the Storting, asking for consideration of this issue in the budget. A group of 90 children from a nearby school, half marked as 'Swedish', demonstrated visually the number of children who could be expected to die from accidental causes during one year in the two countries. Afterwards the children attended the Storting meeting to listen to the debate of this issue. The meeting between the children and the President of the Storting was televised.

In 1985 the Ombudsman also suggested amendments to the Building Act, proposing the same accident-preventive measures in housing that Sweden has had since 1979. When built into new housing, safety measures like safe electrical sockets, cabinets for medicines and poisons, safe spaces between stair treads and railing bars are inexpensive. Built in later the costs are much higher. Rules of this kind were incorporated in the Building Act in 1989.

A question touching on toys, advertising and the mass media was raised by nine-year-old Harald in 1982: 'I think war toys should be forbidden. They scare me and we don't need to learn how to make war. We need to know how to make peace.' Foreign TV stations, computer manufacturers, and game-makers had not started to reach Norway with their advertisements for space-age conflicts. In the 1970s a campaign against war toys had resulted in an agreement between the toy distributors and the ministry, according to which war equipment toys from the period 1918 to 1950 were not to be advertised or offered for sale, even if these toys were available when specifically requested. During the period between 1981 and 1987 it was obvious to the Ombudsman that the old agreement was no longer good enough, since war action toys and toy like weapons (often difficult to differentiate from the real things and used in fights and other conflicts) were increasingly on the market.

In collaboration with the Labour Party Youth movement the Ombudsman asked the Minister of Consumer Affairs to consider a new agreement, but the toy distributors would not cooperate. The Ombudsman then asked the minister to propose a ban on advertisements (like the one on advertising tobacco and alcohol). The minister declined. Finally, in 1989, the Ombudsman suggested that the Minister propose a statement of opinion from the Storting, like the opinion stated by the Swedish Parliament, asking all

branches of business to 'clean their own houses', expressing concern about the effects on children of war and violence play materials (including computer and TV games with violent and/or sexual/pornographic content, and weapons copied from TV, like 'Rambo knives'). Sweden's Parliament would review the situation after two years, and would pass legislation to prohibit such products if the merchants themselves had not done enough about the situation. The Ombudsman suggested that the Norwegian Storting, not so willing to instigate legislation, should at least consider the possibility of legislating against these products. When I left office, no reply had been received to this proposal.

Children and the Labour Market

Even Norwegian children actually work more than most adults think. Ten- to twelve-year-olds work on an average 5.5 hours per week, doing housework at home. In addition they spend more than two hours a week caring for other children, helping the elderly, running errands, shovelling snow etc. Most of this work is 'invisible', in the sense that when it is done at home it is not appreciated as 'real' work, much less paid for. And much of the time spent doing housework at home is keeping one's own room in order, hardly a task suited to giving the child a feeling of participation important to the well-being of the family (Vestby 1987).

The cases brought to the Ombudsman's office were, however, concerned with the child's position and rights in the ordinary labour market. Children were employed, but not given fair terms or the protection of labour legislation accorded to adults. Or they were not employed, for reasons that seemed unfair. The labour legislation has special rules aimed at protecting young people from, for example, night shifts, extremely hard physical labour or dangerous work. The main principle is that working should not be harmful to the health or education of a young person. Some complaints concerned conditions where these main principles were not upheld. Kari and Marit, 13 years old, were employed to sell strawberries from a wagon during the season, but had to work 12 to 14 hours a day and well into the night, without the basic salary or the overtime pay an adult doing the same job would receive. Berna, David, and Kaisa, all preschool children, were playing music, dancing, and entertaining in the streets well after midnight. In both cases the local labour supervision would have been brought into the situation had only adults been involved. And they did go in, after the Ombudsman had notified them that their responsibility also applied to minors.

Anne, aged 15, told us that she wanted work experience on a passenger ship during the school year work-experience weeks. However, the ship owners would hire boys her age, but not girls, the age limit for girls being 18 years. Since neither the boys nor the girls did hard physical work, there seemed to be no reason for the distinction. The Ombudsman questioned the

decision and was told that the company did not want to be responsible for the morals of the girls. The problem was sent to the Ombudsman for Equal Status and the rules were changed.

Children as Customers and Members

The 'Bottle refund' cases illustrate better than many a discrimination of children where no such 'special treatment' is warranted. Children, returning bottles for refunds, are given sweets instead of cash. 'I'm not allowed to eat sweets, I'm a diabetic,' said Mette, adding that 'when I say my hair falls out, it's OK, but if I say I'm a diabetic, they just say "Once can't hurt you, can it?"' 'I want the money because I'm saving up for a new bike', said Per. 'I don't like sweets, I'd rather have some fruit', said Arne. And which adult would be offered - or accept - sweets in return for bottles? Most of these cases were solved by sending a letter (with the official Norwegian Crown on it) to the child, quoting the regulations giving anybody the right to cash refunds. The child, showing the storekeeper the letter, usually got cash. But one class of 12-year-olds, having investigated all the stores in the neighbourhood, had to threaten to expose the shopkeepers in the local paper before the most stubborn ones gave in, to what was a documented legal right of all customers.

Lack of knowledge could be the cause for a different discrimination. Two 13-year-old girls complained that while they paid the full adult fees for entrance in the municipal swimming pool, they were not allowed the 'adult privilege' of cabinets in which to undress, but were referred to the communal dressing room. Explaining the modesty of girls at puberty, the Ombudsman asked that the girls be given cabinets when available, or that they at least - if this were not possible - should be charged as children when treated as children. The director was outraged. But the local papers supported the girls' and the Ombudsman's claim, and the municipal Council finally ruled in their favour.

A different municipality also changed the rules of its pool, according to which children over the age of three had to use the dressing rooms for the same sex. This made it impossible for mothers to take their small sons (or fathers their daughters) to the pool. In accordance with the suggestion of the Ombudsman the age limit was raised to six, when most children manage to dress and undress with little help, even in winter.

A different kind of discrimination was found in a city where the adult football teams held their practice on the neighbourhood fields, while the children's teams had to cross the city to practice.

Cases such as these may seem unimportant. But their solutions do make a difference to children and they all reflect, in different ways, how the needs of children and their right to equality are too easily set aside or forgotten. How hard it is to really give the children equal rights all the way was also

demonstrated by Beate, 14. She had, following a project where the children in a housing cooperation were asked for opinions on how to improve conditions for children, been elected a member of the steering committee. The adults, who had been sceptical about asking the children, were reluctantly impressed by the quality of their suggestions, at first resisting following them up. The adult difficulties in listening to children and taking their viewpoints seriously is well known. So the Ombudsman Office was delighted to hear that a 14-year-old had been elected. Delight was dampened by the fact that she was not given the right to vote - the only member of the committee who did not have this right. Pointing to the unreasonable position she was in, the Ombudsman suggested change and the adults agreed.

A special kind of discrimination appeared in an area of particular concern to many children. Harald, 12, had a dog which had been caught chasing some sheep. According to Norwegian law, the dog can then be shot on the spot. This had not been done; and according to Harald's psychiatrist the dog was particularly important to the boy. The Ombudsman could not question the statement, but did appeal to the sheep owner, who wanted to have the police shoot the dog. (There is no similar reaction allowed against a dog that molests a child.) The Ombudsman asked for leniency on the part of the farmer, and also pointed out to the ministry that sheep have better protection than children do. The outcome of Harald's case is unknown. The request to the ministry brought on a discussion of whether or not children are protected in these cases by the Penal Code.

A final pet case illustrates that the Ombudsman does not always side with the children. A group of girls reported that the neighbours wanted to kill their cats, partly because the cats soiled the neighbourhood's sandboxes. The rules of the cooperative clearly stated that cats were not allowed, while this cooperative did allow dogs. The Ombudsman asked how the parents could have allowed them to keep the cats, because at least the parents should know that this was not allowed. Also, the Ombudsman pointed out that breaking rules was not the right way to go about changing them, suggesting that the children ask for a meeting with the board. The children were informed of new evidence indicating that cats did not increase the danger of contamination or the spreading of disease, even if they at times used the sandboxes. The children followed the advice, and the rules were changed to allow cats within reason (one cat per family and no more).

THE FAMILY SITUATION

Fundamental Considerations

Good parents are the best support children can have. Developments in society often create problems for parents, making parenthood harder than need be. Parents in our society have lost supports and been given worries unknown a couple of generations ago. Improving conditions for families

and for parents' possibilities to function well as parents was an important goal. Among other things, parents need time and opportunity to be able to be good parents. Better information about children and how they develop can relieve parents of unnecessary anxiety and guilt feelings.

To help parents and children, consideration of the needs of children should be reflected in working hours for parents, economic support systems, the right to leave when the child needs parental care, even in planning communities, for example, so that work and home are not too far apart, transportation available and good day care obtainable.

When parents separate, they still need time and opportunity to be good parents. Even more important, the child still needs both parents, loves them both, and should not suffer needlessly from the separation. Parents as well as other adults must try to base their decisions and problem solutions on what is in the best interest of the child. In a total evaluation of the situation, the needs and best interests of children should be the governing principle of the divorce process as well as in rules and services to parents and children after the separation.

Complaints, Concerns and Consequences

Preschools and schools, leisure time activities and the mass media all have an impact on family functioning. The family situation as a special area of concern reflects problems which arise within or touch upon the family more directly, such as parental separations, economy and job situation, parental rights to care for children, and the children's own rights within the family.

The legal rights and the economic support granted to Norwegian parents will seem 'out of this world' to parents in many other countries. However, the Ombudsman cannot say; 'This is good enough - parents are far worse off in other countries'; the Ombudsman must look at the present situation and suggest improvements. The changing situation of parents (eg with both parents working) and the changing situation of the child in the family (eg the low number of children in each family) is not sufficiently reflected in existing law or present support measures.

In spite of the fact that the Office is not allowed to handle individual conflicts in the family, complaints of this kind[55] were the most numerous of all, 27-34% of all the adult complaints, 17-35.5% of the children's complaints, with an annual increase on the part of the children.[56] The importance of the absolute rule against handling such cases except by referral, was immediately evident. Allowed or encouraged to get involved, the Ombudsman could have become a 'Super Psychologist' or 'Superior Child Welfare Board', an impossible relationship to have towards professionals with an intimate knowledge of the individual cases. Turned down individually, the complaints gave grounds for raising issues of procedural changes, law amendments and strengthening of existing rules. They also disclosed that the

institutions responsible for giving plain information and other assistance were not sufficient.

The aftermath and conflicts of divorce were obviously the most frequent reason for complaint. But problems related to the working conditions and economy of the families increased, partly due to the increasing difficulties in the labour market, combining with the rising cost of housing. An expected increase of complaints in 1988, in connection with the heated debate on the rights of the child to access to both parents, proved to be small, however. Judging from reactions to the Office it was clear that most people understood and agreed with the proposal and views of the Ombudsman.

The total number of complaints from children in this area did not increase. The complaints were particularly frequent in the 13 to 16-year group, which was not so remarkable. The younger children would call to ask whether adults may hit their children; the older group was concerned about their own rights in divorce, their right to decide for themselves. They were more vocal about new family conflicts which occur after parental remarriage, perhaps because getting a stepfather or -mother is easier to accept for younger children.

Many youngsters wonder if they 'have to' or may choose between mother and father after divorce. Others, particularly when a dispute arises with parents, wonder whether they can use money they have earned (yes, after age 15) or inherited/received as gifts (no), if parents can decide what organisations (including churches) youngsters should belong to (no, not after age 15) or which friends they can have (dubious) or what clothes they should wear.[57] All these questions reflect the balance between adults' right to make decisions and the young people's own rights, increasing as they grow up. The Ombudsman could give information when the rules were clear, but must not get involved in the dispute.

Sticking to the rule was not always easy. Paul (13) was sent to bed at 5.30 pm every day, while the other boys were playing football outside his windows. Informed that he had to talk to his parents, he replied that they would not talk about it, they wanted 'some peace and quiet without him'. To the Ombudsman this indicated that his parents might be rejecting the boy. They insisted that he needed at least 13 hours of sleep, he said, so he was advised to ask the school doctor about the need for sleep in general at his age, and have a check-up to establish if there were special reasons for needing more. If this information confirmed his own opinion, he might get help from someone outside the family in discussing the matter with his parents.

The Ombudsman's concern about the situation of families with children was reflected in general statements, for example, the Ombudsman commentary to the State Council's report to the Storting on 'Family policies' in 1985. One issue was the changing family situation (for the family in society and

for the child within the family) and the consequences these changes should have for policy, emphasising the importance of recognising interrelationships between various aspects of society and the measures chosen amongst possible alternatives to help.

An increase in child allowance or a tax reduction for families with small children is useless if food prices or the price for preschool increase more than the child allowance or the reduced tax. Any kind of allocation, to have any real effect, should be based on knowledge of the expenses actually involved in bringing up children. The funds thus allocated and the investments made in institutions for children should also be compared with the cost of NOT investing in children - the expenses incurred later if children do not have their basic needs met in younger years.

Working Parents

The difficulties involved in combining work and the care of children is an important parental concern. In addition to the provision of good day care, labour market conditions could be altered to suit the needs of parents better, and so benefit the children. Working hours (shorter hours or increased flexibility) is one part of this issue, the right to paid leave for the sake of children another. The Ombudsman repeatedly attempted to improve the right to leave:

- after the birth of a child and
- to take care of sick children.

With A New Baby

One of the basic needs of a baby is a long-term, stable relationship with a few loving adults. The emotional bonds necessary to establish the ability to love and trust other people develop gradually in the child, especially during the first months of life. If these bonds are broken, or have not been developed, the child's cognitive as well as social and emotional development may suffer. Separations from the adults who love and care for the child, particularly after the age of three or four months, can be very serious if adequate substitutes are not provided. The possibility of harmful effects seems to diminish gradually, particularly after the first year of life. On this basis, the Ombudsman repeatedly demanded paid leave for one year after the birth of a child, a leave the parents might share. Aware of the expenses involved for employers or public budgets, the Ombudsman suggested as a temporary measure that the parents should have the right to one year's leave, with six months pay. The parents could then choose six months with full pay or 12 months at 50%, whichever suited each family best. (Choice is important, satisfaction even more so. Whether or not parents are happy with their situation determines to a large extent how they function as parents.) Some parents might want to work part-time, in which case the baby would spend

'part-time' days with a caregiver; much better for a small child than spending most of the time away from mother and father. These proposals could encourage fathers to participate more, but then the compensation must be based on the father's salary (in most cases higher than the mother's) when leave is taken.

Gradually changes are being made. The right to leave is 28 weeks as of May 1, 1990, and flexibility is being introduced, with the option of a few weeks longer leave, the compensation set at 80% during the entire period of time. Women who were not employed before pregnancy receive a fixed amount.

When Children Are Sick

Lisa, nine years old, wrote: 'I am dreading my birthday this year because when I am ten, my mother can't stay with me when I am sick'. Peter, 13, wrote: 'Just think of being really sick, like with a temperature of 100 (Celsius) (UGH!) and have to stay home alone!'.

Obviously no parent would want to leave even a teenager with a high fever or, for example, concussion. Based on the average number of days a child is sick[58] the Ombudsman proposed:

- increasing the number of days to the Swedish level, 60 days per year per child
- increasing the number of days to ten *for each child* for each parent (20 for single parents)
- with 10 (or 20) days per year, letting parents take this out on average across 12 years
- letting the parents have leave on the basis of doctor's certification of the child's illness.(Some parents are declared ill when their child is ill, and their annual 'allowance' has been used, at the discretion of the doctor.)
- sharing 20 days can only be done by married parents, so the Ombudsman suggested that fathers, even when not married to the child's mother, could have the right to share responsibility for a sick child.

The Ombudsman also suggested that one parent, when it is physically impossible for the other parent to take his or her ten days, should be able to take over. This suggestion was opposed by the Ombudsperson for Equal Status for Women, who was afraid that only mothers would then stay with sick children. She was afraid that employers would declare 'physical impossibility' to keep men (but not women) at work.

None of the suggestions have met with any success. On the contrary, the suggestions may have done more harm than good. A recent letter from the Health Directorate emphasises that doctors are not permitted to declare a parent sick to enable him or her to care for a sick child.

Children in Parental Separation

Parents may separate even if they have not been married. The effects on the children do not depend on a marriage certificate or a divorce ruling. Legislation and procedures are only gradually beginning to take this into account, for example, in proposals dated 1988 for giving cohabiting parents the same tax reductions as married parents and rules for disposal of common property (including housing) when cohabitees move apart.

Complaints and questions about divorce procedures, child support payments, visitation, and custody came from unmarried as well as married parents, from other adults and from children. A very common misconception of adults as well as of children, and particularly striking to the young teenagers, was that at age 12 children can or even have to decide where they want to live after divorce. The 12 year age limit set in the Parents and Children Act (1982) means, however, that younger children certainly can have an opinion and can be heard, but the opinion of the child over 12 years MUST be heard. This does not imply that the child can or has to make the decision, just that he or she has the right to have a say, to the relief of many youngsters.

Ombudsman proposals in this area developed over the years, as cases accumulated, and proposals from other sources appeared. The Parents and Children Act was adopted in 1982, so amendments could not be proposed until some experience had been gained. The Marriage Act was under revision, the commission being appointed before the Ombudsman was established.

Based on my experience in giving expert assistance to the courts in custody cases and on professional statements sent to the Office as documents in other cases, the Ombudsman in 1981 suggested to the Ministry of Justice and the Ministry of Health and Social Affairs that rules be made for when professional help should be requested by the courts and child welfare boards and standards set for how such work should be done. The Ministry of Health and Social Affairs did not respond. The Ministry of Justice asked for the opinion of the county administrators and the Norwegian Association of lawyers. In collaboration with the Norwegian Association of Psychologists, the Norwegian Psychiatric Association and the Association of Child Psychiatrists, and a group appointed in 1987 (of which the Ombudsman was the only 'non-lawyer' member) a set of guidelines was established in 1988. When to call upon an expert was still left to the discretion of the judges, who vary a great deal in this respect. Also lists of available experts from the three professions were compiled, for distribution to parents and to the courts. The working group discussed ways of improving collaboration between professions and innovative ways of bringing in professionals, for example, encouraging lawyers to establish a working relationship with local psychologists to help in the early stages of a divorce case, or encouraging judges to appoint

psychologists or psychiatrists as 'lay' judges when cases are brought to court. Thus professional knowledge and experience with children could be available in the courtroom, without a total psychological investigation of the case in question.

The next Ombudsman proposal was that the children should have their own 'lawyer' or spokesperson in court. Since mother and father both have their lawyers or spokesmen in court, it seemed reasonable that the persons least able to speak on their own behalf should be represented, by a 'child professional' or a lawyer.

The legal profession did not like this idea, insisting that the judges were the spokesmen of the children. Judges learn about children through practical experience; some are good, some definitely not. At least one court has already appointed a lawyer for the children in a case; so while it has not yet become routine procedure, the precedent has been established. The use of child experts as 'lay' judges, or asking other professions to take over interviews with children (particularly those over 12 years of age), seems to be more acceptable to the judges and should help ascertain due consideration of the children's interests.

A Better Divorce for the Children?

Parents who can find good solutions for their children and who can cooperate after divorce create fewer problems for their offspring. To be able to find good solutions, parents must to a certain extent set aside their own wishes. It also helps to know what the important considerations are for children at various stages of development.

Even when parents agree and want to find solutions good for their child, the result may - due to lack of knowledge - be more harmful than need be. A nursery school teacher called. She felt that a two-year-old boy was being put under undue strain by going to two different nursery schools. His parents, wanting the child to spend equal time with mummy and daddy, each had the child two weeks. Every other week the child was sent by plane from the Southern to the Northern tip of Norway, changing his entire situation, and going to two different nursery schools. Informed of the strain that this might be for their child, these well-intentioned parents found a different solution less disruptive to the child's need for a more stable life.

Brief, useful information is not always readily available. Such information was totally lacking in the first edition of a booklet on *Separation and Divorce* sent by the Ministry of Justice to all couples seeking separation. In 1983 the Ombudsman prepared a chapter on 'The interests of children' for the second edition, and proposed a separate booklet on the child-related issues. The Ministry of Justice appointed three people including the Ombudsman herself to prepare such a booklet, which appeared in 1987 and goes with the other one to every separating couple. This booklet is not, however,

easily available to non-married parents. It should be made available through the social welfare offices in each municipality. Whether this has been done or not is unknown.

A further integration of ideas was presented in 1986, in the Ombudsman's statement to proposed amendments of the Marriage Act. The Ombudsman then suggested that compulsory counselling, based on 'the best interests of the children' should replace the existing formal arbitration, carried out by a lay person appointed by the municipality. Experience indicates that these meetings are now rarely more than a formality. The Ombudsman suggested counselling by a professional team, including legal and child development expertise. Cases had demonstrated how many parents, ignorant of the legal as well as the social implications of divorce, would barter away the rights of the child. 'If I can keep the house, you can see the children' or 'If I can't see the children, I won't pay maintenance'. The professional group should also be available to couples if their arrangements turned out to be problematic, either because they were not well planned or because of changes in the situation.

The Bill for the new Marriage Act was not presented in 1989. But the Ministry of Justice in the same year supported a pilot project in one county, where couples are offered the choice of 'Child-centred counselling' instead of the ordinary arbitration. Preliminary results indicate that 90% choose the new alternative and that the number of cases brought to court has been significantly reduced.

Child Maintenance

The financial situation is a major difficulty for single parents, divorced or unmarried. In spite of tax reductions, higher child allowance and other support, single parents have a lower standard of housing and less net income per family member than any other type of family. The size of child maintenance payments very often turns out to be determined by the parent's (most often the father's) willingness to pay, not by the actual costs of bringing up children, even if the rules state that the child is supposed to have a standard of living acceptable to the joint income of the parents. The amount may also be influenced by irrational factors (eg a wish for revenge) or by the more rational reasons of having a new spouse or family to support (if the parent does not pay, a minimum amount is covered by public funds, see p. 45).

In 1983 the Ombudsman pointed out that so long as the actual cost of bringing up children is not known, it may be difficult to set a minimal, but realistic, amount for child maintenance applicable to different situations, for example, according to variations in costs in different parts of the country. It was therefore suggested that child rearing expenses be calculated. Until such information is available, tables prepared by the Ministry of Justice for setting the maintenance amounts were unacceptable to the Ombudsman.

A pilot project in several counties later indicated that in most cases child maintenance would be increased, or stay unchanged, when the amount was based on a certain percentage of the gross income of the paying parent. This simplified system, supported by the Ombudsman, opposed by, for example, a fathers organisation, is now used in the majority of cases.[59]

The Rights of Children in the Family

When parents separate, arrangements for the children should be based on the best interests of the child. A consideration of children's emotional, social and cognitive level of maturity and their need to know and love both parents must therefore have an impact on the rules for visitation, shared parental responsibility and daily care. But while accepting that parents who can cooperate will create fewer problems for children, the Ombudsman objected to the use of coercion to secure the rights - based on the needs - of children. Proposals from an organisation of fathers to legislate shared care (with the child living alternatively with either parent), forcing parents to live in the same neighbourhood, or fixing penalties (fines or prison) for parents who reneged on visitation did not seem to be good solutions. Counselling, to ensure cooperation within the framework of each couple's capacity, would be better. The cooperation of the parent with whom the child lives was already part of the total evaluation in decisions about where the child should live, as demonstrated by Supreme Court rulings. The benefit for the child of spending time with a very reluctant parent is dubious. Helping uncooperative parents understand that the right of the child is being infringed and their future relationship with the child jeopardised may be more helpful.

One suggestion from the fathers' organisation did get the support of the Ombudsman: in the Parents and Children Act the child's visitation rights depended on whether the parents had lived together after the child was born. Hypothetically the father might have moved out two days before the birth. The child would then have no legal right to see the father. If the father had waited two weeks, the child would have that right. The basis for the distinction was that the child might have been conceived by a man whom the mother did not wish to see again - through rape or incest or a very temporary connection - or the man might have abused the woman during pregnancy. In one example the woman, according to the man, had used him as a stud; she did want a child, but not a father for the child. When this exception to the general rule was discussed in 1981, it was upheld because these fathers did not deserve the right to see their children. To the Ombudsman this was, however, not a question of the rights of fathers, but of the rights of children.

The Ombudsman, stating the need and therefore the right of every child to know both parents, did not find any good reason to deny these children this right. The Ombudsman pointed out that by denying the child a father,

the woman was depriving the child in a way which should not be open to her, and she might be depriving the child and herself not only of an income (since many fathers pay more than the minimum child support) but also of the possibility of getting the practical and moral support which a father can provide. Nor would there be any checking against reality of the child's fantasies (good or bad) of what his absent parent was like. Knowing that a child would have the right to see its father, some women might consider more carefully whom they wished to have as the father of their child. Nor was there any reason for difference between mothers. Women who had lived with the fathers might equally have been abused. The child might be conceived as a result of force (rape in marriage). Divorced women go to court to have the visitation rights tried, and these would, as demonstrated by Supreme Court, be denied or curtailed, if visitation was not in the best interests of the child. Women who had not lived with the child's father could also go to court, if the law was changed, whereas the fathers previously had to go to court to get the right to see the child if he had not lived with the mother. If - as some feared - fathers got the right to see their children and turned up after years of absence, the consideration of what would be in the best interest of the child (who perhaps now had a stepfather or was adopted) would always be the ultimate consideration in granting or denying visitation. Some also feared that the man might break into the home of the child, but of course this would not be legal. If he had the right to see the child and this was denied by the mother, he would have to get a court order about how visitation should take place to be able to see the child.

When the Ombudsman suggested an amendment to the Parents and Children Act on these grounds, the public debate was heated, and confused, mostly by people who confused the rights of women and the rights of the child. The proposal was, for example, opposed by the Single Mothers Organisation and some Women's Rights groups. In the Storting members split across party lines, and the vote was close. But the amendment was accepted and went into force for children born after January 1, 1989. Children already born did not have the legal right, but gained a moral right to acquire visitation rights.

The Ombudsman also came across cases where the woman's husband was obviously and admittedly not the father of a child. The woman might be living with another man who accepted paternity and wanted to be the legal as well as the social and biological father. In spite of this, according to the 'Pater Est' rule, the woman's legal husband would still be the legal father of the child. On this basis the Ombudsman asked the Ministry of Justice to reconsider the strict interpretation of the 'Pater Est', modifying it so that a man at least could acquire legal paternity in clear-cut cases like that described. This suggestion will be considered in the proposal for the new Marriage Act.

When Can Children Cause Changes?

Jan, eight years old, had lived with his mother since his parents' divorce. Jan wanted to live with his father and had run away repeatedly. The father had gone to court a number of times, and could not afford to do so again. The courts had ruled that Jan's chances of seeing both parents were better if he stayed with mother. But when mother moved far from father, Jan could not even visit his father. Could the Ombudsman help?

Based on numerous such requests, the Ombudsman proposed a law amendment: if a child had repeatedly demonstrated a strong wish to live with 'the other parent', the child should have the right - not to make the decision - but to ask the county to reevaluate the previous decision. The Ministry of Justice went along with the principle of the suggestion, proposing that the county, on the request of one (not both) parents, might reevaluate, if the child is at least 15 years old. This would not help Jan, who was still only ten, but the amendment was passed by the Storting and was obviously as far as they would go at the present time. (In Jan's case the mother died, so Jan lives with his father anyway.)

Elizabeth's parents were getting divorced, but she said she had no right to see her father. She was right: Her 'father' was actually her stepfather, who had married her mother when Elizabeth was one year old. Elizabeth, now 12 years old, had not had any contact with her biological father, but her stepfather had never legally adopted her. The law only gives the child the right to visitation with legal parents. Other cases, particularly concerning grandparents, also indicated that children at times should have visitation right to other people than their parents. The Ombudsman suggested amending the Parents and Children Act so that it would be possible to give the child visitation rights to, for example, a stepfather, a solution reasonable in view of the increasing divorce and remarriage rates. The 'Single Mothers Organisation' opposed it: the Parents and Children Act should not be amended because of one child, one case. The Ministry of Justice got enough support to present a proposal to the Storting. Pointing out that the situation is common, the Storting, however, did not adopt the proposal. The law does not prevent private agreements, so the amendment should be unnecessary.

The Ombudsman is still concerned for children whose parents will not agree to an arrangement which could be in the best interest of the child. Grandparents and stepparents can be very important to the child. Divorce should not 'divorce' the child from such relationships. This may happen when mother will not let the child visit father's relatives.

Support for grandparents was more conditional on the question of grandparents acting as adoptive or foster parents, for example, after the death of parents. Children need a network of loving adults. By giving the grandparents the role of parents, the child is more or less deprived of one set of supporters. Also, even if grandparents may be ready to take responsibility

for very young children, they may, ten years later, be reluctant to have responsibility for teenagers. So the question should be considered individually, not denied - nor accepted - without careful evaluation. Of course, if the grandparents are the only possible choice, the matter should be clear.

A different question, but related to divorce, was brought to the office by Knut, 16½ years old. Young people in part-time jobs usually do not pay tax, if what they earn is under a certain limit. Child maintenance is taxed, added to mother's income, until the year the child is 16, when maintenance can be taxed on the child's income. After 17 it must be on the child's income tax return. Knut pointed out that when child maintenance was added to his income, the total was above the tax free limit, so he had to pay tax on all of his income. This seemed unfair. The Ombudsman suggested that the rules be changed, to allow children of divorced parents the same tax free income as other youngsters. The suggestion had also been made by other groups, including the Standing Committee on Social Welfare and Health, and was passed by the Storting in 1987.

Conflicts Close to Home

Conflicts with neighbours generally concern older children. Small children and their play are accepted, but once children grow out of the sandbox, neighbours have less tolerance for the noise and commotion children make. There is little understanding of, for example, children's inclination to play close to home.[60] Some of these conflicts, particularly those pertaining to poor planning of housing areas, were handled under the heading 'Children and planning' (see p. 138). The examples illustrate the types of conflict involved.

A group of the children sent the new rules enforced in their cooperative housing area. They felt that the rules prejudged and humiliated children:

1. Children are not allowed to scribble on the walls.
2. Children are not allowed to make noise in the corridors.
3. Children are not allowed to play inside the building, except in their own apartments.
4. Children are not allowed to hang around inside the building, outside other apartments.
5. Children are forbidden to play outside other entrances to the building than their own.
6. Children must not leave belongings outside. Such belongings will be placed in the rubbish containers.
7. Children must not use tricycles, bicycles etc. on the pedestrian walks.
8. Children must not step on the grass or flower beds.

The Ombudsman wrote to the board of the cooperative, asking whether all the things forbidden to children were allowed for adults. The hazards

children were exposed to if the rules were upheld were pointed out, such as traffic accidents and disease (when looking for lost objects including shovels and pails in the rubbish containers) and the illegal way of handling lost-and-found property. The Ombudsman received no reply directly from the housing cooperative, but copies of complaints that had been sent to the Ministry of Consumer Affairs and Government Administration, the Ombudsman for Public Administration, and finally - after the complaints elsewhere had been turned down as unreasonable - to members of the Storting. The board of the housing cooperation also complained in the national magazine for the nationwide housing cooperation organisation, leading to a flood of 'rules for our area' letters to the Ombudsman, to check if the rules were 'OK for children' - evidence of an indirect effect which the Ombudsman actions sometimes have had. Needless to say, the rules for the housing cooperative that instigated the case were changed.

Tove and Mari, ten years old, had built a tree house on a vacant lot next door to their home. Neighbours, who did not own the lot, thought the house ugly and demanded it be removed, wanting the children to go farther afield with their projects. The children wanted to use it for meetings in their secret societies, rebuild it, or spend the nights there. Neither legislation regulating the rights of neighbours (eg asking for a tree casting shade to be felled or for fences to be put up) nor other legislation gave the neighbours any right to make such demands. The Ombudsman informed them of this and gave information about the needs of children in outdoor play. The children jubilantly reported that they were allowed to keep their house.

Adoption and Artificial Insemination: Two Issues

The new Adoption Act was proposed in 1983. The main change was that existing legal differences between adopted and biological children were removed, for example, the possibility of revoking an adoption. Based on 'the best interest of the child', the Ombudsman supported this view, only questioning a conflict that might arise between the interests of an adopted child and a biological child in the same family. If a couple adopted an elder child to circumvent their own child's right to inherit their property, the adoption date, not the birth date, should in cases of conflict be decisive.

Leaving an opening for exceptions the Ombudsman supported the view that single adults and homosexual couples should not be allowed to adopt. Norwegian children put up for adoption are so scarce, and foreign children have often been exposed to such difficulties, that there is no reason to espouse less than ideal conditions for these children. A father and a mother, as identification objects as well as caring adults, are ordinarily important for children.

The Ombudsman's views on artificial insemination created some - but not enough - interest. The issue was whether or not the donors should still

be anonymous. Sweden had abolished anonymity two to three years earlier. Some argued that children need to know their biological roots, compared with adoption, and said that the emotional problems of children born of German fathers during World War II were caused by the lack of knowledge of the identity of the fathers. Others feared that the number of donors would go down if anonymity were canceled and felt that it would be unreasonable to expect donors to accept a child 'turning up on their doorstep', perhaps many years later. The Ombudsman stated that adoption is visually obvious, not preceded by pregnancy and in many cases with a child of a different race than the parents. The difficulties of the 'War children' cannot be attributed solely to the fact that they did not know their fathers, because these children - and their mothers - were severely ostracised during and after the War. It might be correct that children born of artificial insemination really did want to know their biological roots, but the Ombudsman could not find research evidence to support or reject this view.

The proposal suggested that children should be able to get this information after age 18, but this should not apply to children already born. Therefore the Ombudsman suggested that the identities of donors might be secured, but 'frozen' for 18 years. In the meantime Norwegians could find out from Sweden how many children actually wanted this information and what would happen to the potential donors. Other research on possible consequences of not knowing biological parenthood might also be carried out or collected from other parts of the world. The problem of living with a family secret would be resolved if the parents honestly told their child how conception had happened, but just as honestly could tell the child that they did not know who the donor was.

CHILDREN AND PLANNING

Fundamental Considerations

Children need outdoor space, for play, explorative learning, and social activities. The need for space - and adult supervision - changes as children grow. Small children need to be able to investigate the elements - sand, water, stones, and sticks - what can be done with them and what happens when different actions are taken, by the individual child or by a small group. They often need adults or older children with whom they can get in touch quickly. Gross motor activity includes running, swinging, and climbing, but the space needed for these exercises is much smaller than the space and 'equipment' (including trees and garage roofs) used by older children. Older children rarely use standard playground equipment in the 'standard' ways, but prefer materials for creative activity. They use available hard surface space (streets and parking lots, if these are available close to home) where they can play team games, ball games, hop scotch, jumping rope, and riding bicycles. Until the age of 11-12, the perceptual and motor development

needed to manage a bicycle in traffic is not sufficient, even if the youngsters hotly deny that there may be things they cannot see and situations they cannot master. Teenagers also need space for games and sports, and places to spend time together. All children need to be safe. Small children cannot judge whether a car is coming or going, how fast it is going - and they believe cars can be stopped instantly. They forget traffic hazards when absorbed in other activities, dashing into the street for a ball or chasing a cat.

Complaints and Consequences

Rural and urban planning was the only area specifically mentioned as a possible field of work for the Ombudsman in the proposals for establishing the office. It includes all levels of planning for the physical conditions pertaining to children, from overall development plans of municipalities to conditions in a small area, for example, the destruction of a playground. Traffic problems, arising from increased traffic or poor planning, accident prevention, pollution and environmental issues also belong in this area.

In this area - as in others - it is necessary to keep in mind that the Ombudsman receives hardly anything but *complaints*. Good planning, good efforts for children, are not reported to the Office. The complaints may, of course, represent a minority of actions, carried out by a small group of politicians. The picture of society thus obtained may therefore be faulty. But the problems and attitudes are nevertheless real.

The number of complaints[61] was stable from 1982-1987, around 14% of the total number of both adult and children's complaints. The sharp decrease the next year (1988) was a consequence of the new rules pertaining to these problems, announced to be completed that year (but actually presented in August 1989). The Ombudsman therefore referred these complaints to the Ministry of Environment, as responsible for the new rules.

Complaints from children[62] were very similar to the complaints from adults, but often more specific and concrete. Adults would complain of a proposed plan or the way a plan was handled by the politicians, for example, the Building Board. Children would say: 'they (unspecified who) are destroying our coasting (or skiing or ball field)!' Children of school age were frequent plaintiffs, reflecting their widening range of activities, but also the lack of planning for these age groups. Small children are often well provided for, with sandboxes and play equipment close to the house. School age and teenage Norwegians have few places for activities other than organised sports, excepting the woods and mountains within reach. Transportation is increasingly necessary to reach these natural resources. Even if the distance is reasonable, getting there can be dangerous because of traffic. A common complaint from children was that a new highway would prevent them from using a natural activity area. So Norwegian children are right when they complain of a lack of *available* space. The parking lots and streets, hard and

flat, can be - and are - used for many games, but are hardly the safest places for children.

Most of the complaints concerned traffic problems, planning of traffic and the consequences of these plans for children. It is difficult to separate problems of planning and traffic. Poor planning so often leads to traffic problems. But even if they overlap, there are other problems resulting from a neglect of children's interests, not resulting in actual traffic problems. When complaints pertaining to municipal areas or plans were received, the Ombudsman always asked for the documents of the municipality, to check what had been said about the interests of children. Often the municipal technical administration and the politicians had neglected children, simply because they did not have the relevant knowledge.

The cases showed that:

- play areas are often used for other purposes, for example, shopping centres or parking lots, often being considered as 'spare space' in the plans for an area, to be used (and easily) for something else when need arises
- there are often no play areas in existing housing areas or in the plans for new developments
- play areas and other areas for children are often located in unsuitable places
- play areas are not completed according to plans, but postponed, often repeatedly, considered less important than other projects
- new roads and streets are built too close to housing or play areas
- the increase of traffic in a housing area,as a consequence of other developments, for example, a new shopping centre or housing project, is not sufficiently considered
- traffic accident prevention measures are removed or not established if in conflict with adult interests.

There was during these years an increasing resistance to planning housing areas in such a way that children and traffic were separated, a fact which was made clear at a seminar held by the Ombudsman for planning experts in 1986.

A group of children lived in apartment houses around a free area, but were not allowed to play there. The zoning regulations indicated that the area was for play and outdoor activities. But the adults in the housing cooperation had first put in a lawn, with a sign 'Do not step on the grass'. Then they had planted thorny rose bushes all over the area. The parents, a in minority on the board, had protested to no avail. The Ombudsman informed the board of children's needs for areas close to their homes, but also criticised the municipal Building Control for accepting a way of using the area which did not conform with the building permit. The Building

Control replied that it was expecting an application for changing the regulations. The Ombudsman replied that a change of rules should have preceded the actual change of use, and that the public authority must be responsible for protecting the children's interests, in spite of the board decision, even if the board seemed to represent a majority. Each family, regardless of size, was represented by one person, all adults. If the children were included in the number to be represented and not only the number of households the majority would be dubious indeed. The Ombudsman suggested a meeting between the building control and the inhabitants, which resulted in a new plan for the area combining the needs of the children and the adult wish for a more park-like area.

In another part of the country the free area was encircled by rows of small houses, each with a small back yard, separated from the 'ball- and play-area' by low fences. The owners had planted bushes on the outside of the fences, then moved the fences outside the bushes. This was repeated several times. Each back yard thus had gained territory, but the children had lost theirs. There was hardly space for a sandbox left. Then the owners applied for ownership and a change of the rules for the area. The Building Board accepted the application, on the grounds that now the owners had already acquired the area, so 'the map should be changed to suit the territory.'

In other plans children's interests may be remembered, but not considered very important. A group of children sent a map where they had outlined the planned play area. The intended play area was dotted with little blue lines, showing that it was planned on a marsh, so wet that even in summer the children had to wear Wellington boots to get across it. The municipality had no plans for draining, but commented in their descriptive documents, received by the Ombudsman on request, that 'this area would be too expensive to build on, due to the foundation costs involved.' A third group of children sent the documents of a planned housing area, where the area designated for children was thus described: 'this area can well be used for play and children's outdoor activities. It cannot be used for any other purpose; it is too steep and there is a constant danger of landslides.'

A fourth group of children complained of a waste-disposal plant being built close to their school, while a group of parents protested at the location of a new nursery school/kindergarten in the 'buffer zone' between a waste plant and their houses, where the description in the documents read: 'this area is, because of the smell and smoke, unsuitable for human habitation.'

In a different part of the country a kindergarten was planned close to a very busy road. The noise level was too high, so the county administration and the municipal health authorities had turned down the plan. The municipal kindergarten board asked the municipality to consider five alternative locations. The Municipal Council voted to build the kindergarten there anyway. In a very similar case, the health authorities had repeatedly de-

manded measures to reduce the noise-level from a road close to a nursery school, but the municipality still kept extending the temporary permission to use the house as an institution for children. In a third example the fumes from the main road caused a very unpleasant smell in the kindergarten. Measurements and analyses of the gas were made six feet from the ground. On the advice of the Ombudsman the parents insisted on measurements two to three feet from the ground, demonstrating that the content of lead was much higher at the lower level. (In a similar case in Sweden, the children went to court, suing for damages after a main road had been built close to their day care institution. And at least one child won).

Traffic

A group of children wrote: 'Hi! It's really awful! We think we should be able to go to school safely! They could have set up some lights or a bridge when they took the road humps away! But our poor, poor community can't afford it. They never can afford things for children! What if a bus driver bumps up and down a little? Couldn't he stand that for the sake of the children? Zebra crossings are no good, the cars don't stop anyway, but go ahead like they were in a race. The bus drivers should think twice before they complained! What if they had to stand and wait and wait and wait to cross the road! WE DON'T WANT TO DIE UNDER THE WHEELS OF CARS! Greetings from a group of angry school children.'[63]

The sleeping policemen aimed at supplementing the signs had been removed after protests from the bus drivers' union, which had succeeded in gaining the removal of other road humps in the same area the year before. The Ombudsman had referred to research indicating the necessity of speed reductions by physical means, and the road humps were replaced. The expense of removing the humps was equal to the expense of replacing them. When the second complaint came, the Ombudsman asked for confirmation from the Labour Control Board of the drivers' argument that the road humps led to painful back and shoulder conditions. The Labour Control Board answered that there was no documentation that they led to back troubles, when crossed at reasonable speeds. Existing back trouble might possibly be aggravated. This was an important clarification, because bus driver unions all over the country were using the argument to have such road humps removed.

In 1983 the first hearing statements on traffic and traffic accident prevention concerned age limits for driving motorised bicycles (where the proposal was to allow this for 14- to 15-year-olds, but not in traffic). The Ombudsman questioned the feasibility of this, referring to the high accident rate for young people and being afraid that 'practice driving' would in a sense 'legalise' traffic driving as well. In 1985, the Ombudsman suggested compulsory

driving lessons for motorised bicycles, which became a requirement to get a license in 1987.

In 1984 the Ombudsman suggested safety belts for all passengers in cars, including children. Only passengers over 15 years of age were required to use belts, back seat belts being required from 1985. The suggestion met with no response from the Traffic Authorities, until it had been repeated in 1984, 1985, 1986 and 1987. Then in 1988 safety belts for children over 12 and under one year was proposed. The Ombudsman again suggested belts or other safety measures for all children, and the proposal was changed, to include children over six or under three years of age. Finally, the top Traffic Director had to admit publicly, in a radio 'duel' with the Ombudsman that the accident rate for passengers was highest for children between three and six, the proposal, and the rules were changed to include all children, but only in relatively new cars. (Many parents drive old cars, particularly the 'second car' mostly used for transportation of children). The driver was made responsible for all passengers, for example, the children from a nursery school or kindergarten, much to the annoyance of some taxi drivers. One even threw me out of his taxi when he realised who his passenger was. The taxi drivers association, however, supported the new ruling.

Principle Issues in the Planning Process

Many cases clearly illustrate that local politicians were not actually against children; they simply do not know enough about the needs of children. Many non-politicians were staggered by the municipal system, so when parents groups, for example, wanted to do something about the conditions for their children, they did not know where to go, how to go about it. For these reasons, information is important. The Ombudsman gave as much factual information as possible when giving opinions to municipalities and as hearing statements. These were circulated widely. But the Ombudsman also took other initiatives. After seeing a series of articles in the monthly magazine of the Norwegian Housewives Association on how to improve traffic conditions locally, the Ombudsman suggested that these articles be published for wider use. With the Ombudsman as a coordinating umbrella, five ministries and 11 organisations cooperated to publish a small book based on the articles in 1985, to be sold from newsstands as well as bookstores and through the many organisations.

Information Is Not Always Enough

Lack of clear-cut responsibility, of planning capacity and of clear guidelines are elements which weaken the interests of children in planning. Lack of interest in giving the needs of children priority - or even consideration - is an obvious problem too. Also, areas for children do not provide the financial advantages that, for example, housing itself does.

In countless cases the municipality would reply to a question or statement from the Ombudsman: 'you may be right - perhaps we did forget the playground, but it is too late. The plans have gone too far to be changed now.'

A series of projects to bring attention to the role of the physical environment for children had been initiated in 1979, the International Year of the Child. One of the key people was 'second-in-command' at the Ombudsman Office from 1982 to 1985, the other member of the Advisory Panel from 1985 to 1989.

As early as 1982 the Ombudsman, in connection with a hearing statement on 'Simplifications in the building/planning process' pointed out that clear rules and guidelines instead of unclear ones can be a simplification in itself. The Office also suggested that a representative of the interests of children should be appointed to attend meetings of the Building Board, with special responsibility for seeing that the interests of children were included from the very beginning of the planning process. We thought this would be an obvious improvement, but the idea was not accepted until 1989. In the meantime we pointed out that children's interests should be at least as important as the interests of sheep, horses, and sausages, all represented by the veterinary, who, in addition to conditions for animals is also responsible for sanitary conditions in food production, for example, sausages. We also proposed rules for compensation to children when play areas were used for other purposes.

These general points of view were repeated in 1983, 1984, 1985 and 1986 in various hearing statements. In 1983 the Office also suggested national guidelines or regulations on how the interests of children could be taken care of in all municipal planning. General municipal development plans should include not only analyses of the plan's consequences for the labour market, the traffic situation, the municipal housing situation, and municipal environment, but also the consequences, social as well as practical, for children.

In the annual report for 1983 the Ombudsman suggested umbrella legislation to outline minimum requirements for conditions for children (see p. 67). In 1985 the Ombudsman suggested that the cost of establishing areas for children should be reimbursed to the owners or builders by dividing it between the number of households in the area. Some buildings not covered by the Building regulations, ie outbuildings on farms, should be included, to give grounds for accident prevention rulings.

In 1985 the Ombudsman invited representatives of five ministries to discuss children's interests in planning and the need for measures and coordination in this area. Recognising the difficulties in getting legislation or financial control in such matters, the need for information and other measures are all the more pressing. The Ombudsman, on the basis of the experiences of the past years, suggested that some superior authority (eg the

county governor) might be authorised to stop plans if the interests of children had been neglected. This would counteract the tendencies and consequences of bringing up the interests of children when it was already 'too late'.

It was also evident that children have no strong organisations or interest groups, which seemed particularly important in the technical planning sector. In 1988 the Ministry of Environment appointed a working group, with the Ombudsman (represented by the Head of Division) as one member, the previous second person at the Ombudsman's Office as one of the other members, to propose amendments of the Building and Planning Act and new national guidelines for considering children in all municipal planning. The many statements of the Ombudsman Office were an important source of material for the group, which presented its proposals early in 1989. The amendment of the Building and Planning Act was accepted by the Storting in the Spring of 1989, so that after September 1, 1989 all municipal Building Boards must include a representative particularly responsible for children. The new national guidelines went into force in January 1990.

STRUCTURES DETERMINING CONDITIONS FOR CHILDREN

Fundamental Considerations

Problems within different sectors of society disclose weaknesses in the organisation of systems and structures affecting children and families. Responsibility for children is often split amongst sectors. An overall view of conditions for children is often lacking. In Norway at least half of the total number of ministries had responsibility for children. The Ministries of Education, Health and Social Affairs and of Consumer Affairs and Government Administration were the most important. But the Ministries of Justice, Finance, Environment, Labour and Local Administration, Science and Cultural Affairs - even the Ministries of Defence, Foreign Affairs and of Oil and Energy had responsibilities for matters that pertain to or impinge on children. This diffusion of responsibility on the national level was reflected in the political and administrative structures on the county and municipal levels.

Development of societal change must not further weaken possibilities for protecting the interests of children. On the contrary, existing systems and structures should be strengthened, or new structures added, to infuse consideration of children in every area. To do this effectively, however, an overall understanding is needed, on which a coordinated effort for improvement can be based.

The development of local independence in Norway was one trend which might have positive and negative consequences for children. The 450 municipalities, most of them with less than 5000 people, should provide an easy access to all sectors, with intimate knowledge of local conditions, with politicians very much aware of what was going on, and with voters who

could keep a close eye on what their local decision-makers were doing. This was the philosophy of increasing local independence, for example, when the Ministry of Local Government and Labour proposed block grants to the municipalities. About 100 different allotments, many earmarked for special purposes, led to State control of many local activities, and also secured equal standards of school, special education, and other measures for children. Nearly all these allotments were put together as one block.

The Ombudsman for Children was the only institution looking at the proposal solely from the viewpoint of its impact on children. The opinion of the Ombudsman was that this new arrangement laid open the possibility of depriving children in particular. Very, very few measures for children are mandatory for the municipalities. When the municipality is legally obliged to meet certain demands, these rarely involve standards. The municipality is responsible for schools, but nothing binding is said about their quality, except the minimum number of hours per child per year and the maximum number of children to a class. Nursery schools and kindergartens are not mandatory. The municipality must have a development plan, but has no obligation to stick to it; implementation can be postponed indefinitely. Play areas were not then a legal requirement; youth clubs or other leisure-time facilities are still not. Even the municipality's obligations in child welfare might be questioned (and was, see p. 85).

In the choice between measures for children and other purposes, local politicians are often in a difficult situation. They 'love children', but are generally older people themselves or have old parents and their own old age in front of them. So, when they have to choose between an institution for the elderly or one for children, children are bound to lose.

In order to secure equal opportunities for children all over the country, there are a limited number of possible measures. One is the use of legislation, making requirements for children binding to the municipalities. The other is financial, earmarking funds for certain purposes. The third is a combination of the two. The Ombudsman suggested five grants to the municipalities, one for schools, the second for other child-related purposes, the third, fourth and fifth for elderly and social welfare, culture, and technical expenses. The Ombudsman was, of course, challenged for her lack of faith in local politicians. Hoping that they would learn and that they would be challenged by their constituencies, the Ombudsman still did not want the 'cows to die while the grass grew'. No issue would be too difficult to manage so long as the municipalities (this was in the 'oil-boom' period) had funds enough for everything they wanted to do. In that case sectorial blocks would cause no difficulties either.

However, the proposals of the Ombudsman led to no changes. One-block grants were introduced in 1985. Information collected later has demonstrated that in a tight financial situation, the measures and projects that suffer

most are nursery schools and kindergartens (where not only new ones are postponed, but ones in use are being closed down or reduced), culture budgets (which include youth clubs and organisations), and the quality of schools, where transportation costs in particular (transferred to county responsibility/budgets) encourage municipalities to close schools.

Should Local Structures be Changed?

In local elections every four years, the population can challenge or change the composition of local political structures. Another way of challenging local decisions may be to appeal to county authorities, if the county is empowered to send an issue back for reconsideration or revoke a municipal decision. A third way to strengthen the position of weak groups is to change the structures taking care of their interests. If existing structures are not adequate to protect the interests of weak groups, the responsibility for these groups must be strengthened by reorganising existing structures or establishing new ones.

The Ombudsman made proposals in all of these directions. The first proposals of changes in the local administration concerned responsibility for the schools. The Ombudsman stated on principle that schools are a national responsibility, not only the responsibility of municipalities (compulsory schools) and counties (top level secondary schools). The county school administration should have a superior responsibility, to give parents and others (eg children) a possibility to appeal against decisions made on a local level, and also to have some guarantee that the municipalities of the county offered equal education opportunities to the children.

In the hearing statement in 1986 on the proposal for a new Social Services Act, and elsewhere, the Ombudsman emphasised the necessity of a municipal board responsible for conditions for children, a responsibility of the child welfare boards according to the Child Welfare Act from 1959, but not included in the new Bill. The Ombudsman proposed two alternatives:

- a Child Welfare Board separate from the Social Welfare Board, responsible for preventative measures, for example, the control of videos, checking the child aspects of zoning and planning projects, as well as the 'curative' measures aimed at individual children and families, or
- a special Board for Children's Affairs, comprised of members of other important committees, ie one member from the Building Board, one from the School Board, one from the Roads and Streets Committee, one from the Social Welfare and Health Board etc. With a representation like this, the Children's Board would bring together viewpoints from all sectors of municipal activity and be responsible for bringing the interests of children back to all the other committees. Such a Board would be responsible for bringing out budget informa-

tion across chapters, for example by finding out how much money could be saved in the Child Welfare chapter by investments in the 'Preschool institutions' chapter. Also, this constellation would ensure that members of the Municipal Council and the Municipal Executive Board would be involved and could follow up children's interests in the top-level decisions-making bodies.

The latter suggestion has been adopted by a few municipalities. The responsibility for general conditions for children is, according to the proposal to the Storting for the Social Services Act, an area where the Health and Social Welfare Board will have some responsibility, 'must cooperate with other bodies in the work for improving conditions for children', but will no longer have an independent, superior responsibility in relation to other branches of the local administration.

A 'Conditions for Children Code'? A New Ministry?

In 1983, the Ombudsman suggested umbrella legislation: a 'Conditions for Children Code'. The idea was not new; it had been proposed in 1975 and 1977, but not adopted. The Ombudsman took the first paragraphs of the 'Labour Protection Act', exchanging the word 'employer' with 'adult' and 'employee' with 'children', these paragraphs thus giving a fair description of the possible aims of such a Code. The idea was picked up later by several committees appointed to report to the Council of State or Storting. The committee preparing the 'Free time Day Care Report' suggested pooling the School Act, the Kindergarten Act, a new Free time Day Care Act and a new Culture for Children Act, thus building the Code for Children's Conditions. The committee on Family and Parents Education in its conclusions pointed to the need for a comprehensive Code of this kind without specifying its contents further. One interesting development was that the suggestion was repeated with increasing frequency and by groups of an increasing political variety.

One difficulty in establishing such a Code would naturally lie in defining its contents. Should it, for example, incorporate the School Acts or should it just give a general statement on conditions which would also be applicable in the schools, without including the other aims and goals of education? For the Ombudsman one aim of the proposal was to focus on the lack of rights for children. So even the fact that the suggestion was taken seriously by such a variety of politicians was in itself a step in the right direction, increasing awareness of the situation for children. The Ombudsman, pointing to these developments, repeated the suggestion in 1986.

As noted in Chapter One, the Ombudsman for Children does not have a clearly defined domain of jurisdiction. Such a wide, in many respects unclear mandate makes it difficult to evaluate development; a well-defined frame of reference is missing. A 'Conditions for Children Code' could be such an

instrument for the Ombudsman for Children, who could investigate breaches and defend the Code in a way similar to the Equal Status Act and the Ombudsperson for Equal Status. Such a Code might also serve as a guide to the choice of issues to be priorities for action. (The new Convention on the Rights of the Child may become just this kind of useful tool for the Ombudsman for Children.)

The proposal was not pursued further. But its purpose might be taken care of by other means. The Ombudsman in August 1988 suggested creating a ministry for Children, Youth, and Families. If a Code for the Conditions of Children were established, it would naturally be the responsibility of such a new ministry. On the other hand, if a ministry were established, the ministry could propose a new Code.

The basis for proposing a new ministry was mainly that responsibility for children and conditions pertaining to children is shared - or pulverised - by at least eight or nine ministries. The same picture appears on the local level. The Ombudsman therefore suggested that responsibility for children, with the exception of education, should be separated out of the other ministries and collected in one new ministry. Preschool, grade school and secondary school should be incorporated in the Ministry of Education, no longer split between two or three ministries. The new ministry would ensure that a member of the Council of State would be particularly responsible for children and families, with a budget and a coordinating administration that these issues so far did not have.

As an alternative, well aware that the organisation of a new ministry might take time, the Ombudsman suggested a cross-ministerial coordinating body, a Directorate for Children and Families. A Directorate is an administrative/professional office, concerned with a specified area, so it would not give these issues a place in the Council of State, but at least ensure a better coordination between efforts and measures suggested by the various ministries, and also pick up issues that were 'lost' between various branches of the administration.

The proposals were sent to around 60 organisations for opinions. None supported the ministry idea, but all replies indicated an understanding of the basis for the proposal, and agreed that something must be done to improve the situation. Many supported the idea of a Directorate. A summary of the viewpoints was sent to the Prime Minister and other members of the Council of State just two weeks before the change of ombudsman.[64]

Notes

30. *Table 11.* Total number of complaints, requests etc.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Case-related		1289	1321	1402	1315	1345	1674	1600
Children's rights, information		106	131	94	148	151	192	85
Lectures and other public information		263	269	167	195	252	240	493
Info. about Ombudsman office/ duties		131	131	158	188	182	187	251
Administration budget, staff		64	158	83	67	92	165	104
Others		71	62	61	58	103	83	149
Total	1641	1924	2072	1965	1971	2125	2641	2682

Breakdown for 1982 is not presented because groups 1 and 2 ('Case-related' and 'Children's rights and situation', information requests) were then combined (1210) as were groups 5 and 6 ('Administration' and 'Others') (84).

The variations in number of administration, budget and staff cases reflect periods with changes within the staff, for examples applications and the replies to them being included here.

31. *Table 12.* Distribution of individual cases (I), cases of principle (P) and hearings (H). Number and percentages of total

	1982		*1983*		*1984*		*1985*		*1986*		*1987*		*1988*		*1989*	
		%		%		%		%		%		%		%		%
I	630	87.8	694	83.6	705	86.0	670	84.0	717	84.0	750	86.0	839	87.0	896	89.0
P	74	9.7	107	12.9	79	9.6	91	11.0	111	13.0	97	11.0	90	9.0	76	8.0
H	19	2.5	29	3.5	36	4.4	37	5.0	27	3.0	30	3.0	32	3.0	32	3.0
T	712	100	830	100	820	100	798	100	855	100	877	100	951	99	1004	100

The number of cases does not reflect the distribution of time nor the importance of each case. Cases of principle increased in complexity, while time spent on individual cases decreased. When an individual case was included or developed into a case of general interest, the individual case as such was closed. When smaller cases of general interest were combined, the smaller cases as such were closed.

The following table does not, therefore, reflect accurately when an issue was closed, as it might then be included in the further handling of a larger case.

32. *Table 13.* Dismissals (D), referrals (R), shelvings (S) or further handling (F), related to total number of cases concluded during that year

	1983		*1984*		*1985*		*1986*		*1987*		*1988*		*1989*	
		%		%		%		%		%		%		%
D	144	18.7	162	22.2	131	20	164	23	153	19.7	162	8.7	165	17.1
R	183	23.8	180	24.7	167	25	187	26	187	24.1	285	32.9	296	30.6
S	299	38.8	271	37.2	221	33	181	25	266	34.3	280	30.2	348	36.0
F	144	18.7	116	15.9	152	23	187	26	170	21.9	138	16.0	181	19.4
	770		729		671		719		726		865		966	

This table reflects a change in that the number of cases in which an opinion was given seems to decrease in 1987 and 1988. The number of new problem areas necessarily decreased, while the number of problems to which the Office had given an opinion increased. A number of cases were therefore not handled once more. The plaintiff would instead receive copies of earlier statements in similar cases, to be used at the best judgement of the plaintiff, often with a referral to the appropriate local authorities.

Cases concluded during one year might be reopened later, if new complaints were received, or a new avenue of approach appeared. Therefore the total for each year here does not correspond with the total of cases per year.

33. *Table 14.* From where did cases come? Totals and percentage of annual number of cases

	1983		*1984*		*1985*		*1986*		*1987*		*1988*		*1989*	
	N	%	*N*	%	*N*	%	*N*	%	*N*	%	*N*	%	*N*	%
Children	103	12.4	94	11.5	71	9.0	79	9.0	78	9.0	65	7.0	96	9.6
Individual adults	449	54.1	518	63.2	498	62.0	523	61.0	554	63.0	634	66.0	705	70.2
Professionals	60	7.2	38	4.6	26	3.0	22	3.0	34	4.0	73	7.0	18	1.8
Institutions, schools	18	2.2	14	1.7	17	2.0	27	3.0	61	7.0	17	2.0	18	1.8
Municipal or county authorities	29	3.5	19	2.4	36	5.0	42	5.0	42	5.0	20	2.0	30	3.0
National authority ministries etc.	38	4.6	26	3.1	31	4.0	37	4.0	31	4.0	47	5.0	46	4.6
Organisations	81	9.8	53	6.5	59	7.0	68	8.0	18	2.0	55	6.0	53	5.3
Others	8	0.9	9	1.1	11	1.0	7	1.0	5	1.0	5	1.0	10	1.0
Office initiative	44	5.3	49	6.0	49	6.0	50	6.0	54	6.0	45	5.0	28	2.8
Total	830	100	820	100	798	99	855	99	877	101	951	100	1004	100

34. This is, many would say, a minor issue - but it was an unjust discrimination against the youngest. The follow-up from the Ombudsman led to a general rule, namely that children's only daily half-hour of TV should have priority in such cases.

35. The youngest self-initiated call was from a girl of 4, concerned about her own 'unemployment'. Too young for school, with no available preschool, she wanted to know if she could get a job distributing newspapers. Collaborating with her mother, we found her a job as a daily visitor and errand-girl for an elderly, housebound lady next door.

36. *Table 15.* Age distributions of children (1982-1988)

Age is known for 411 individuals (classes, schools etc not included)

	Total		*Male*			*Female*		
Age	*T*	*%*	*nr.*	*%/m*	*%/T*	*nr.*	*%/f*	*%/T*
0-6	24	5.7	8	6.5	1.9	16	5.5	3.8
7-12	236	57.4	69	56.1	16.8	167	58.0	40.6
13-16	137	33.3	42	34.1	10.2	95	33.0	23.1
17-18	14	3.4	4	11.4	1.0	10	3.5	2.4

37. *Table 16.* Case areas, age and gender

Age	*0-6*			*7-12*			*13-16*			*17-18*		
	m	*f*	*t*	*m*	*f*	*t*	*m*	*f*	*t*	*m*	*f*	*t*
1. Special circum-stances	0	1	4	7	25	32	5	18	23	1	4	5
2. Leisure	0	1	1	4	8	12	0	3	3	0	0	0
3. School	0	0	0	13	38	51	9	9	18	1	1	2
4. Culture	3	7	10	10	23	33	8	9	17	0	0	0
5. Family	0	2	2	12	37	49	18	65	83	2	9	11
6. Planning	3	2	5	14	18	32	1	3	4	0	0	0
7. Miscel.	2	6	8	9	20	29	0	6	6	0	0	0

38. Table 17. Individual children, sex and complaint category. Schools not included. Classes split 50-50 male-female (1981-88)

cat	1981		1982		1983		1984		1985		1986		1987		1988		anon			
	m	*f*	*m*	*f*	*m*	*f*	*m*	*f*	*m*	*f*	*m*	*f*	*m*	*f*	*m*	*f*		*m*	*f*	*T*
1	14	16	3	12	1	9	4	3	1	7	5	7	2	9	3	10	5	33	75	113
2			3	6	1	2	1	1	1	5	1	2	1	3	0	1	0	8	20	28
3		2	30	39	39	52	25	35	16	19	3	7	4	4	3	4	2	127	162	291
4			13	33	20	23	4	10	2	7	16	15	15	16	1	0	2	79	104	185
5			25	31	5	14	12	14	9	13	4	16	7	24	6	14	2	66	126	196
6			53	44	6	9	4	4	1	6	2	1	15	17	7	7	1	81	81	162?
Total 1-6			307		181		117		89		79		119		427					
7			32	38	10	11	6	9	0	2	16	21	1	4	1	5	2	66	90	156
	14	20	165	203	62	120	56	76	32	59	47	69	47	77	14	34	16	462	636	
Total			372		202		132		91		116		124		48		18			

Category numbers refer to numbers table 16.
1989 not included. Analyses of children's cases not available.

39. *Table 18.* To whom did the Office give a written opinion in *individual* cases?

	1983	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Ministries	6	9	6	10	8	9	5
Other national body	2	2	3	1	4	5	0
Counties	3	3	3	1	1	1	2
Municipalities	39	29	35	43	28	18	8
Institutions, professionals	0	2	4	2	1	1	0
Organisations	7	8	10	2	2	2	2
Priv. business	3	6	4	2	2	2	0
Police	2	0	2	4	1	0	2
Mass media	3	5	5	2	4	3	0
Research inst.							
Others					13	21	4
Total	65	64	72	67	64	62	23

Opinions in individual cases to these groups most certainly have some principle interest. Not included are hearing opinions and issues of absolute general interest. In the latter cases opinions were sent to the body requesting an opinion (eg a ministry concerning amendments to legislation) but would also be circulated widely to municipalities, organisations or individuals who should be interested, for use as the recipient might judge it useful. Such use of opinions are not included in the statistical material available.

Adding to these the hearing statements:

1983	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
29	36	37	27	30	32	32
Total 94	100	109	94	94	94	55

40. *Table 19.* Cases distributed according to problem areas (numbers and % of total)

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
1. Children in institutions, child welfare, abuse	166	144	153	163	174	196	257	304
%	21.7	17.3	18.6	20.4	20.4	22.3	26.7	30.3
2. Child care, public leisure facilities	65	63	69	70	55	59	78	74
%	8.5	7.6	8.4	8.8	6.4	6.7	8.1	7.4
3. School problems	102	137	136	128	129	130	127	137
%	13.4	16.5	16.6	16.0	15.1	14.8	13.2	13.7
4. Culture and consumer	104	88	88	86	79	71	95	74
%	13.6	10.6	10.7	10.8	9.2	8.1	9.9	7.4
5. Family circumstances	194	253	238	242	279	276	294	317
%	25.4	30.5	29.0	30.3	32.6	31.4	30.6	31.6

6. Physical conditions, urban and rural planning	95	118	117	98	112	113	72	74
%	12.5	14.2	14.3	12.3	13.1	12.9	7.5	7.4
7. Miscellaneous	37	27	19	11	27	32	38	24
Total	763	830	820	798	855	877	961	1004

41. According to a survey in 1985, children 0-6 years old are ill 22 days per year, seven- to 15-year-olds 15 days. Children 0 to 15 years old have some contact with the health services 12 times a year, of which 3-5 are medical consultations.

42. *Table 20.* Problems raised in problem area 'Children in uncommon circumstances'

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Child welfare / protection agencies' work	24	34	39	35	52	69	84	
Child abuse, corporal punishment	41	31	30	34	37	35	44	
Substitute placement, support contacts	22	21	21	22	17	10	14	
Children with special needs	16	12	12	11	11	4	12	
Minority groups	8	4	1	7	5	9	30	
Drug abuse, delinquency, relationship police	15	15	18	17	12	24	23	
Hospitalised children	9	3	9	12	18	33	41	
Adoption	0	7	4	4	1	4	1	
Rights of children, general child protection	13	6	7	8	8	8	8	
Miscellaneous	18	11	12	13	13	0	0	
Total	166	144	153	163	174	196	257	304

In 1989 the following categories were used:

General	3
Child welfare	193
Children with special needs	16
Language minorities	26
Children and health	41

Special problems	20
Miscellaneous	5
Total	304

43. *Table 21.* Distribution of cases, uncommon circumstances, children compared to adults

Year	*Total all cases*			*Total problem area*				
	T	*A*	*C*	*T*	*A**	%	*C***	%
1982	763	621	142	166	153	24.6	13	9.2
1983	830	727	103	137	130	17.9	7	1.0
1984	820	726	94	153	145	20.0	8	8.5
1985	798	727	71	163	151	20.8	12	16.9
1986	855	766	79	174	162	21.2	12	15.2
1987	877	719	78	196	182	22.8	14	17.9
1988	961	896	65	257	265	29.6	12	18.8
1989	1004	908	96	304	284	31.3	20	20.8

* Number of adult complaints in problem-area and percentage of these complaints of total annual number of adult complaints

** Number of children's complaints in area and the percentage of these to total of children's annual number of children's complaints

44. To bring the problem out, my successor decided to sue several child welfare boards for neglecting their duties towards children. Whether or not the cases come to court depends on whether local politicians can be sued for neglect, particularly by an Office or person who is not a party in the case.

45. Melton (in press) reports that the Ministry of Education in October 1989 'has been negotiating long-term solutions' on exactly these lines.

46. *Table 22.* Problems raised in problem area 'Child care and public leisure facilities'.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Preschools	51	46	55	46	42	48	65	56
Park 'aunts' / private day care	6	6	5	7	3	1	3	5
Free-time inst. for schoolchildren	1	5	4	1	2	3		1
Clubs and other leisure-time fac.	7	6	5	16	8	7	6	1
Other	0	0	0	0	0	3	4	11
Total	65	63	69	70	55	59	78	74

In 1989 'Other' was classified as 'General' (2), 'Play areas outside housing area' (2), 'Mainstreaming' (2) and 'Miscellaneous' (5).

47. *Table* 23. Distribution of cases, child care and public leisure facilities, children compared with adults.

Year	*Total all cases*			*Total problem area*				
	T	*A*	*C*	*T*	*A**	*%*	*C***	*%*
1982	763	621	142	65	58	9.3	7	4.9
1983	830	727	103	63	59	8.1	4	3.9
1984	820	726	94	69	65	8.6	4	4.3
1985	798	727	71	70	65	8.9	5	7.0
1986	855	766	79	55	52	6.8	3	3.8
1987	877	719	78	59	58	7.3	1	1.3
1988	961	896	65	78	76	8.5	2	3.1
1989	1004	908	96	74	72	8.0	2	2.1

* Number of adult complaints in problem area, percentage of annual number of adult complaints

** Number of children's complaints in problem area, percentage of annual total of children's complaints

48. The implication that the reasons for opposing the proposal might not be professional, can be understood. The Under Secretary had been Acting Mayor of the municipal Council where I was a member of the opposition when - two years earlier - the question of religious education in the municipal preschools was discussed. I had then also opposed the proposal, on professional grounds, but as a politician. The fact that the same arguments were used in 1982 might have been misunderstood as political arguments, while the truth was that the reasons were professional on both occasions.

49. Ypsilanti Michigan 'Hi-Scope' Pre-school Programme, which indicated that in the long run (20 years) the cost of a good preschool would be returned five to seven times, due to less need for special education, unemployment benefits and criminal expenses for children who had attended the preschool, as compared to those who had not.

50. *Table* 24. Problems raised in problem area 'School problems'.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Municipal school-plans, closing schools or classes	13	23	17	19	16	17	29	26
Transportation, safety on way to school	22	15	11	18	23	32	32	
Physical conditions in school/playground	7	7	12	9	14	10	6	
Curriculum	14	15	20	8	5	4	3	
Bullying, staffing, other interpersonal conflicts	30	41	49	51	41	36	32	

Mainstreaming	16	17	9	6	5	8	9	
General problems, school legislation, rights	0	10	4	4	7	6	11	
Miscellaneous	0	9	14	13	18	17	5	
Total	102	137	136	128	129	130	127	137

In 1989 the following classification was used:

'General'	0
'School-plans'	26
'Elementary school'	89
'Mainstreaming'	6
'Secondary school'	4
'Special education'	9
'School psychology system'	3
'Miscellaneous'	0
Total	137

51. *Table* 25. Distribution of cases, school problems, children compared with adults

Year	*Total all cases*			*Total problem area*				
	T	*A*	*C*	*T*	*A**	%	*C ***	%
1982	763	621	142	102	73	11.7	29	20.4
1983	830	727	103	137	114	15.7	23	24.5
1984	820	726	94	136	106	14.6	30	31.9
1985	798	727	71	128	113	15.5	15	21.1
1986	855	766	79	129	116	15.1	13	16.5
1987	877	719	78	130	115	16.0	15	19.2
1988	961	896	65	127	112	12.5	15	23.1
1989	1004	908	96	137	116	12.8	21	21.9

* Number of adult complaints in problem area, percentage of total annual number of adult complaints

** Number of children's complaints in problem area, percentage of total annual number of children's complaints.

52. Gulating lagmannsrett is the appeal court for lower courts in Western Norway. The parents sued the municipality of Stavanger, which was cleared by the court April 8, 1986.

53. *Table 26.* Problems raised in problem area 'Culture and consumer problems'.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Media, video, TV	49	39	35	22	21	29	27	22
Hazardous products	26	27	24	32	33	24	39	30
Labour, jobs	8	7	10	11	7	3	9	6
Books, films, magazines	0	7	8	7	7	8	15	11
Private organisations	0	5	8	8	8	5	3	4
Miscellaneous	21	3	3	6	3	2	2	1
Total	104	88	88	86	79	71	95	74

Instead of 'Books, films, magazines' in 1989 the categories were 'Children and culture' (11) and 'Youth and culture' (0)

54. *Table 27.* Distribution of cases, culture and consumer problems, children compared with adults.

Year	*Total all cases*			*Total within problem area*				
	T	A	C	T	A*	%	C**	%
1982	763	621	142	104	74	11.9	30	21.1
1983	830	727	103	88	72	9.9	16	15.5
1984	820	726	94	88	66	9.1	12	12.8
1985	798	727	71	86	76	10.5	10	14.1
1986	855	766	79	79	69	9.0	10	12.7
1987	877	719	78	71	61	7.6	10	12.8
1988	961	896	65	95	92	10.3	3	4.6
1989	1004	908	96	74	70	10.2	4	4.2

* Total number of adult cases in problem area, % of total annual number of adult cases

** Total number of children's cases in area, % of total annual number of children's cases'

55. *Table 28.* Problems raised in problem area 'Family situation'.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
Family economy	32	43	24	35	45	23	25	44
Work/job situation						20	24	18
Living conditions	24	17	19	13	18	1	1	1
Neighbourhood						15	11	13
Divorce	116	150	147	144	154	157	169	176

The child in the family, rights	22	38	35	41	45	50	59	61
Miscellaneous		5	13	9	13	10	5	4
Total	194	253	238	242	279	276	294	317

56. *Table 29.* Distribution of cases, family situation, children compared with adults.

Year	*Total all cases*			*Total within problem area*				
	T	*A*	*C*	*T*	*A**	%	*C***	%
1982	763	621	142	194	170	27.4	24	16.9
1983	830	727	103	253	235	32.3	18	17.5
1984	820	726	94	238	225	31.0	23	24.5
1985	830	727	71	242	221	30.4	21	29.6
1986	855	766	79	279	259	33.8	20	25.3
1987	877	719	78	276	251	31.4	25	32.1
1988	961	896	65	294	271	30.2	23	35.4
1989	1004	908	96	317	281	29.9	36	37.5

* Total of adult cases in problem area, % of annual total of adult cases

** Total of children's cases in problem area, % of annual total of children's cases

57. The list of 'Rights and responsibilities of children', published by the Ombudsman, was very useful with this age-group. See translation in Appendix, p. 249.

58. Norwegian children 0-6 years old have an average of 22 days of illness per year requiring bed-rest or reduced activity. Seven- to 15-year-olds have an average of 15 days per year. Both groups have an average of 12 visits to the health services, approximately four of these to see a doctor. In 1985 22% of all children 0-6 years of age and 27% of the children 7-15 years old had some kind of long-term illness (over six months duration or expected long duration eg diabetes or cancer). Most common were skin diseases and respiratory diseases (hay fever, allergies, respiratory infections).

59. The percentage was set, finally, at 11% for one child, 15% for two children, and 18% for three children, the number of children to include all the children of the payee, and divided equally between them. If a father therefore has two children in his first marriage and one in his second, the mother of the first family will get 12% (not 15%) of his gross income.

60. Surveys show that right up to the age of eight, the radius of activity of a vast majority of children is less than 200 metres. Most five to six-year-olds remain within 100 metres of their own front door. More than half of all 13- to 16-year-olds stay within 300 meters of their home when they are outside, in their local neighbourhood (Kolbenstvedt and Strand 1978).

61. *Table 30.* Problems raised in problem area 'Children and planning'.

	1982	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989*
General physical planning surveys	7	12	8	5	7	10	10	7
New housing areas	8	3	6	8	5	7	5	2
Existing housing areas	30	22	21	25	32	37	26	22
Roads and streets traffic safety	25	42	45	40	49	48	21	28
Completion of plans	15	26	31	13	9	15	8	13
Miscellaneous	10	13	6	7	10	6	2	2
Total	95	118	117	98	112	113	72	74

62. *Table 31.* Distribution of cases, children and planning, children compared with adults.

Year	*Total all cases*			*Total within problem area*				
	T	A	C	T	A*	%	C**	%
1982	763	621	142	95	74	11.9	21	14.8
1982	830	727	103	118	101	13.9	17	16.5
1984	820	726	94	117	106	14.6	11	11.7
1985	830	727	71	98	92	12.7	6	8.5
1986	855	766	79	112	102	13.3	10	12.7
1987	877	719	78	113	104	13.0	9	11.5
1988	961	896	65	72	70	7.8	2	3.1
1989	1004	908	96	74	69	7.6	5	5.2

* total of adult cases in problem area, % of total annual number of adult cases

** total of children's cases in problem area, % of total annual number of children's cases

63. Traffic accident frequency is very high, even based on official statistics. Research indicates that statistics are poor, and that there are up to two and a half times as many traffic accidents leading to hospitalisation as those reported. Eighty five per cent of the most seriously wounded and only 20% of the lesser are included in hospital numbers. Particularly accidents to children on bicycles and children who are alone when the accident happens are poorly reported.

Official statistics show that nearly 1100 children are killed or hurt annually in traffic. Forty per cent of all accidental deaths happen in traffic.

Ten per cent of traffic accidents happen when the children are on their way to school, 90% happen when children are playing near their homes or are on their way to leisure-time activities or friends.

For the age-group 3-6 years, Norway had 54% higher numbers of children killed or hurt in traffic in 1986 than Sweden had.

The numbers were 10% higher for the seven- to 14-year-olds and 37% higher for the 15- to 17-year-olds.

Number of cars and children

	Children	*Cars*	*Ratio*
1950	800,000	120,000	0.15
1988	1,000,000	1,900,000	1.9
2000	840,000	2,500,000	3.0

Based on present birthrate.

64. With the change of Council of State after general elections in September, 1989, the new Council of State reorganised the ministries. Consumer Affairs and Government Administration Ministry was split into a Ministry of Labour and Public Administration and a Family and Consumer Ministry. The latter will be responsible for many of the issues now in the hands of the Ministry of Health and Social Affairs, the Ministry of Justice, among others. The Ministry of Church and Education is now a new Ministry of Education, while church matters are transferred to a new Ministry of Culture and Church. To me these reorganisations seem to be steps in the direction of a Ministry for Children, Youth and Families. On January 1, 1991 the ministry was again renamed: the Ministry of Children and Family Affairs.

Chapter Four

Challenges, Changes and Considerations Eight Years Later

Particularly in international or foreign fora, someone is bound to ask: 'has it worked?' or 'has the Office had any kind of effect?' or 'are conditions for children any better than they would have been without the Ombudsman?'

Such questions are sometimes difficult to answer. Like a doctor treating a patient with a bad cold, it can be hard to know how quickly the patient would have recovered without the medicine, or how sick he would have been without treatment, or did he get well in spite of the medicine? Or would some other medicine have done just as well or even better? Or was the medicine good in spite of how it worked on this patient? The Ombudsman Office was a new medicine, and it did work.

In the work for children, there are obviously many participants. As in team games, it is hard to say which is more important. The question is rather: could the Ombudsman as one player have been taken off the field? And would the goals still have been scored? (Questions to be looked at in the next chapter are what made it work and whether it might also work in other countries.)

1981: New and Unknown

When I was appointed Ombudsman in 1981, I was aware that I was totally unknown as a public figure. In my own municipality I was known as a local politician and to some as the 'preschool psychologist'. But I had held no office on the county or national level. My own public image was as unclear as the image of the Office. This could be good and bad. The preconceptions about what I would do were minimal and I could build up the image of the Ombudsman Office without focusing too much on the person. This was important to me. The Office was going to be permanent, I was temporary. Faith in the Ombudsman Office must not rest solely on the person in office. On the other hand it meant starting from scratch on both counts, with, no doubt, some scepticism about the person as well as about the office.

The ambivalence and divided opinions about establishing the Office is described in Chapter One. From the very beginning I was aware that

expectations were confused, guidelines for the work of the Office so wide that 'anything goes' (except family conflict cases and cases in the hands of the courts). So I knew that, regardless of what we did, we would disappoint some expectations and live up to or exceed others.

The situation was complicated by the fact that general elections two weeks after the Ombudsman Act went into effect led to a change in the political configuration of the Storting and a new Council of State, with the parties in power that had opposed establishment. The new Prime Minister had promised, during the campaign, to abolish the Ombudsman for Children Office if his party won the elections, which they did. Our future was uncertain, to say the least. My co-workers and I decided to do the best we could in whatever time we had, disregarding the expectations of others and the threat of being abolished, as best we could.

My own aims were simple: in addition to the responsibilities outlined in the Act, the value of the Office must be established. The Ombudsman for Children was not only a vague concept, but utterly unknown to most Norwegians.[65] If the Ombudsman was to be used as intended, the Office must become a positive concept in the minds of children and adults. The other aim, at least as important, was to give the Office a clear 'Child Profile', which in practical terms meant that it was first and foremost for children, the Ombudsman a person available to children.

Impressions and Appraisals

THE BASIS FOR EVALUATION

The Office did not have the capacity to investigate the outcome of each individual case. Trying to record results when known, information was so incidental that systematic records were impossible. Children who asked for help often called back; 'I just want to tell you what happened.' Politicians or administrative bodies on the municipal and county levels had no obligation to and did not routinely inform the Ombudsman of the outcome of a case nor of the use made of information or opinions. Local newspapers sometimes reported, but this information is incidental too. Outcomes of individual cases could have provided a more detailed picture of what arguments were most effective, which ways of handling cases worked well, which less well. But plenty is known about this from other sources, from the experience of the Office, and from follow-up studies done later, particularly on the national level. On that level it was easier to trace a process and follow the progress. Legislative amendments are reported in the mass media, the Office received the reports and propositions to the Storting. Thus it was possible to check how opinions and statements were used.

Evaluation should preferably be done by outsiders as well as insiders. Outsiders can get answers to questions which are difficult for the insiders

to ask; for example, how do members of the administration, politicians on various levels, children and adults see the Ombudsman now? The insiders know things that others do not know; for example, the reasoning behind the choices of methods, the background lobbying, the combination of factors around and in the Office which had an impact on what the Office was doing.

A couple of factors should be kept in mind. The Ombudsman Office is the recipient of complaints. The Office is not informed of all the good ideas, planning, developments and conditions for children. It has been said that the Office painted the darker side of the picture of conditions for children in Norway, which in a sense is true. And unavoidable.

The staff constantly reminded each other that 'There are happy, healthy children in Norway.' But the responsibility of the Office is to point out the negative conditions and their consequences for children, and to suggest improvements. There is, of course, less need for the Office to suggest improvements on the positive issues, but there has been a danger of suggesting improvements that were already being planned or being put into effect. There is, as pointed out, a difficult 'balance between being a spokesperson to whom the public pays attention and the-boy-who-cried wolf' (Miljeteig-Olssen 1990).

The next point is that eight years is not a very long time. The process of legislative change is a long one. Changing attitudes and general opinions takes even longer, but is more important in the long run. If attitudes basically changed, legislative measures might be unnecessary.

The increase or decrease of numbers of cases is a very poor measure of the achievement of the Office as well as of conditions for children. Qualitative evaluations are more difficult still. Particularly for people who do not know how the system works, which arguments are used, and what Norwegians feel about an issue, it must be practically impossible to evaluate the effort, the need, and therefore the achievements involved in change, because these must be seen in relation to prevailing conditions within a country. For instance, the gradual increase from 22 to 28 weeks of paid leave after the birth of a child would seem very insignificant indeed to the Swedes, who are able to stay at home with pay for 18 months. But the same change might seem striking to other parents, who have no such legal rights at all. Neither Swedes nor many others have any idea about the ease, or difficulties involved, in obtaining this gain. Nor is this important, except in so far as it indicates by which means such goals can be reached. And in some countries the very idea that such rights should be legislated may be incomprehensible, if these rights belong solidly within the labour negotiations - and tradition makes it impossible to imagine they might belong somewhere else.

The following is based on the experiences of the Ombudsman and a study done by Gary Melton.[66] A small survey carried out by Norwegian students and a thesis by a Belgian student of criminology will also be included. In

addition, a Norwegian opinion polling institute (Markeds-og Mediainstituttet, Oslo) on behalf of UNICEF Florence, included questions on the work of the Ombudsman in their omnibus survey of November 1989.

HOW DID THE PUBLIC SEE THE OFFICE IN 1989?

Our overriding goal was, of course, to help protect the interests of children and to effect change in the prevailing conditions for children. To be able to do this, people must know about the Office and feel that the Office was useful. Our *impression* was that the Office was taken seriously and was never made a 'laughing stock' as other Ombudsman Offices sporadically had been. But what do Norwegians in general feel about the Ombudsman for Children? To get at least a partial answer, UNICEF Florence commissioned a poll from Markeds-og Mediainstituttet, a well-known opinion-polling firm in Oslo. The poll comprised a random, representative, nationwide population sample of approximately 1100 interviewees, all over 15 years of age (Tamsfoss 1989, see translation and more extensive summary, Appendix Two).[67]

The survey shows that the Office of the Ombudsman is now well established in public opinion. Answers were free recall and no prompt was given. Seventy-four per cent named the Ombudsman[68] as an institution protecting the interests of children, nearly half of the total sample naming this institution first. Other replies were 'the child welfare service' or 'The Ministries'. Almost 40% knew the name of the first Ombudsman, 80% mentioned the name of the man who was appointed my successor two months before the survey was carried out.[69]

Not only is the Ombudsman Office now obviously well known, as much for the work done as for the person holding office. The MMI survey also shows that over 80% of the interviewed persons think the Office is useful, only two per cent now want to abolish it. There is little difference between political parties. Sixty-five to eighty-eight per cent of the adherents of the parties that opposed establishment now are in favour of the Office, only three to ten per cent of them advocating abolishment. Age, gender, income, family size and region of residence are unrelated to opinions about the Ombudsman Office.

THE CHILDREN'S PROFILE WE WANTED?

While the absolute number of complaints and requests from children was stable over the years, the relative proportion of complaints directly from children decreased, compared to the annual total of complaints. This caused concern, for outside observers as well as for us. Greetje Willems[70] (1988-89) says: 'it is deplorable that the law has not stipulated explicitly that the Commissioner must make sure that he is accessible to children. It is important that they should know him. After all, it is their Commissioner'.

If the law had a stipulation of this kind, it might have been easier to obtain a free telephone line or better funding for information and other public relations efforts. However, the picture is not entirely bleak.

As mentioned above, the MMI sample does not include people under 15 years of age. In the age group 15-24 years of age, 65% mention the Ombudsman as a national body protecting the interests of children (as compared to 74% of the total sample); 36% mention the Office *first*, compared to 46% of the total sample.

In an investigation carried out in September and October 1989 by teacher-training students in the Bergen area (Winjansen, Sundfjord, Ullestad and Løvig 1989) 69% of their sample of 74 12-year-olds had heard about the Office. Sixty-four per cent would trust the Office to help if they had a problem. Twenty-five per cent of this group knew the name of the new Ombudsman, indicating that the concept was better known than the person.

One hundred and fifty children in grades 1-6 (20 per grade) in the Trondheim area were interviewed in connection with Gary Melton's investigation (see note 66). Asked if they had heard about the Ombudsman, two thirds of the children in grade 1 and grade 2 had, three quarters in grade 3 and 4 and nearly all of the children in grade 5 and 6 had heard about the Office. Almost all of the children on all levels would ask the Ombudsman for help and could give examples of when they would do so. Most, but not all, the examples concerned problems with which the Ombudsman really could be of some help.

An interesting point in both the surveys amongst children was the indication that the children had obtained their knowledge of the Office from TV and radio. In the Trondheim survey nearly all the children said they had heard about it from TV. This was not very surprising, because these interviews were carried out after regular ten minutes programmes by the Ombudsman were established. The Bergen survey was carried out before these programmes started. At that time the Office did not feel TV had been very helpful in giving information, and the most important recipients of informational material from the Office were the schools, which, according to these children, were rarely the source of information.

Creating Networks of Partnership

The Ombudsman for Children obviously cannot function alone. The small staff in itself indicates that cooperation with others was and is essential. Different problems and issues evidently require different collaborators. Since the Ombudsman is free to handle issues in any way deemed most effective, the possibilities of choice are legion, comprising the Council of State, the ministries, the Storting, the municipalities and counties, research institutions and universities, and non-governmental organisations, individ-

uals as well as groups. Establishing good working relationships was essential. How did it work? What changed over the years?

THE STORTING

In relation to the Storting (parliament) there were few contacts during the first years. The Ombudsman did not follow the proceedings of the Storting until issues raised by, or of particular concern to the Ombudsman, reached the Storting level. Also, aware of the possibility of perceived party allegiance, there was a certain need for caution, because the Ombudsman Office should not be identified with party interests.

Gradually, however, the public in general and the politicians in particular were convinced by our statements that our concern for children would override any political loyalties. The opinion of the Ombudsman on the 'Family Policy' report to the Storting (1985) supported the views of seven different parties on one issue or the other. It was interesting to note that several of the parties which initially opposed the Ombudsman asked me to speak at their meetings more often than any other party did. Participating in these meetings provided opportunities to clarify points of view and make them known to key politicians in these parties.

The parties that created the Ombudsman Office were surprisingly absent from the list of groups asking for lectures, panel participation etc. We do not know why, but comments from key politicians might indicate that these parties felt no need to know more when the Ombudsma ' views coincided with their own and in cases of disagreement, felt uncomfortable with that fact and did not welcome the discussion.

During my last two years in office, my deputy and I were frequently invited to give opinions in the Storting, in standing committee hearings, political groups or to individual members. On occasion I also spent days in the Storting lobbying for legislative amendments that had been put on the agenda for debate, notably the Parents and Children Act amendments on corporal punishment (see p. 84) and visitation rights (see p. 133) and the 'threshold age' of imprisonment (see p. 80). Formal and informal meetings directly and indirectly gave information about issues raised in the Storting of interest to, or on the initiative of, the Ombudsman. The invitations as well as the reactions also served as an indication of the Storting members' views of the Ombudsman office.

The Storting had established the Ombudsman for Children, but hardly made it a strong institution. A tiny staff and a very small budget has caused questions about why the Storting chose to support a weak Ombudsman. Some critics wondered whether the Storting, in keeping it small, was indirectly trying to control its influence. 'It prevents the Barneombud from being an effective critic' (Melton, ms.p. 25). Seen against the divided opinions about creating the Office, and the general tendencies to cut public budgets,

a less sceptical view might be that the Storting just did not care enough to do something about it. This changed. Evidence that the majority in the Storting accepted the Ombudsman for Children came clearly in late 1988. The Budget proposal from the Minister of Consumer Affairs and Government Administration contained an increase of 20% from 1988 to 1989. The Storting increased the total by 23%, in a period when most budgets were reduced. The budget was increased again by an additional 50% for 1990 (see p. 70).

THE COUNCIL OF STATE

The political leadership, the ministers, under-secretaries, and political advisers, of course determine not only issues to be proposed to the Storting, but the emphasis of work done by the administration.

Different views on the value of legislation are important for the work of the Ombudsman. The first Council of State under which I served was more reluctant about using legislation as a means of change than the latter, judging from the reluctance of the first to propose legislation supported by the latter. The examples are few, however, since most of the proposals of the Office hardly reached the stage of Council of State support during the first few years. The picture is confused by other factors as well. Some of the difference might be due to the time needed for an idea to mature sufficiently to make the change feasible and acceptable to the majority of the people as well as to the government. The general development towards local independence counteracted any wish to control through national legislation, and the general economic development, with increasing budget difficulties on the national as well as on the local levels, made legislation with financial consequences more difficult to accept. Also, it was reasonable to expect that the Ombudsman needed time to establish credibility before the top level politicians would willingly listen to what the Office had to say.

During the first period, individual ministers, such as the Minister of Justice, would be positive publicly, but the majority of that Council of State and the Prime Minister were obviously more ambivalent. This lack of response determined to some degree the way the Ombudsman would approach a Council of State. When the Council of State changed in 1986, we did not immediately understand that it might be possible to work more closely with the new political leadership. We might perhaps have taken more initiative ourselves. But it also seems reasonable that this political leadership (having established the Office) would find it fairly easy to contact the Ombudsman, which they did not.

THE MINISTRIES

There is a dilemma, a delicate balance, involved in the degree of closeness which is desirable between an independent institution such as an Ombuds-

man and branches of the administration such as the ministries. Being responsible for criticising administration on all levels, it would not do to get so close to any one ministry that the Ombudsman would be identified with it. This may be a dilemma for all Ombudsmen, but is particularly the case for one with the wide mandate of the Ombudsman for Children. On the other hand, too much distance means increasing difficulties in keeping informed. Without sufficient information about what is going on, the risk of asking for initiatives already taken, plans already in progress, and thus 'the irritation effect' of the Ombudsman would rise, perhaps to a degree which might counteract other Ombudsman proposals, by defining the Ombudsman as a 'nagger'.

The Ministry of Consumer Affairs and Government Administration was closest to the Ombudsman for several reasons.[71] This ministry handled the administrative affairs of the Ombudsman in relation to the budget and employment of top-level staff. It was the formal recipient of the Ombudsman Annual Report, and could send an observer to the meetings of the Advisory Panel. This ministry also was (and is) responsible for overall conditions for children, so the overlap in fields of interest could be very strong. According to Wiig (1981) this ministry was enthusiastic about establishing the Ombudsman.

The impression I got, however, was that the Ombudsman Office had little importance and low priority in the ministry. This may not have been objectively true, but it was understandable. During these years there were several changes of ministers, several reorganisations, and probably a constant frustration due to understaffing. There were few resources to work for conditions for children in general. Most of the effort went into the preschool area, also belonging to this ministry, where several important proposals and plans were made. Many of these must have been difficult for the professional preschool educators employed as civil servants in the ministry to accept and defend in public. The Ombudsman, unhampered by political leadership, was free to object. Also, having a professional of their own field as the Ombudsman may have led to a stronger feeling of intrusion or threat than they had visualised.

The feeling of lack of interest was engendered by a few main issues: budget issues concerning the Ombudsman were treated with correct formality, but without enthusiasm, were presented in the preliminary documents, but not supported and therefore not 'carried' to the top level decision-makers. This was understandable when the ministry every day felt its own (but not the Ombudsman's) financial squeeze, but hardly encouraging. Also, there was little continuity in contacts. The persons sent to our Advisory Panel meetings changed constantly, particularly after 1984.

The Ministry of Health and Social Affairs had opposed the Office, according to Wiig (1981) perhaps because an Ombudsman might be perceived as

a threat by a ministry concerned with the welfare of individual children. The ministry then would have preferred strengthening local initiatives, but spokesmen now feel the establishment of the Ombudsman for Children was a wise choice (Melton 1990) because the resources could not really have had much effect locally and because they were ready to admit that the Ombudsman had done a good job. None the less it was surprising that, even after seven or eight years, this ministry was slow to answer letters and quick to criticise procedure (the only ministry to do this). These two items were connected: the Ombudsman, referring to the Public Administration Act time limits, was waiting for replies to letters long after the time limit had run out. The ministry criticised the Ombudsman, stating that this Act did not apply between public institutions. The Faculty of Law at the University of Oslo and the Ministry of Justice confirmed that while the issue might be debatable, it was reasonable to presume validity.

Proposals sent to the Ministry of Health and Social Affairs were rarely followed up in proposals to the Storting. There may have been several reasons for this, one being the increased Ombudsman emphasis on preventative measures to a ministry where only two per cent of the budget was for prevention (one informant said it should be called 'the Ministry of Repair' and several others described it at 'unduly defensive and "insufficiently forward looking"' (Melton, p. 50)): the defensiveness, in relation to the Ombudsman might also be due to the invasion-and-threat effect of having an Ombudsman with as much professional experience in their field as many of the ministry civil servants. And last but not least, the proposals made by the Ombudsman would, if adopted, be costly.

Again, comparing the impression of the ministries with their attitudes towards establishing the Office, it is clear that the Ministry of Justice was positive from the very beginning and positive all along. The Ministry of Education was negative to establishment, but positive to suggestions and cooperation.

Looking at the kinds of proposals sent to the various ministries, it is obvious that there was a difference in the consequences of proposals. The proposals to the Ministry of Justice were amendments which would not cost a great deal of money. Giving children the right to access to both parents, raising the 'imprisonment age' or making physical or psychological maltreatment illegal were important issues, but not a drain on state or local budgets. The proposal for pre-divorce counselling (see p. 132), if made compulsory, would involve expenses for remunerating members of the counselling groups. But many of these might already be on public payrolls, and if it turned out (as the pilot project indicated) that fewer cases would go to court, money on the total public budget would be saved.

Clarifying and strengthening the children's rights in the school system would hardly be expensive. But giving every child equal opportunity edu-

cation, or expanding the school day or lowering the age for starting school, would be very expensive, even if money was saved in the long run, ie during the next 20-25 years.

Giving the child an independent right to social welfare or child welfare benefits, or reorganising the whole child welfare system, would also very possibly be costly. Giving each child the right to preschool education would obviously run to enormous costs, although again money would be saved in the long run. So the proposals that met with approval were generally the less costly ones; the others are not yet resolved.

Other ministries were amazed to get complaints from the Ombudsman for Children, for example, the Ministry of Defence or the Ministry of Oil and Energy. The 'Energy Ministry' is responsible for regulations on electricity supplies. The Ombudsman pointed out a discrepancy: it is forbidden to establish a play ground under high-voltage transmission cables, but stretching cables over a play area is quite legal. One nursery school had to be closed because the children got electric shocks from the playground equipment and also from touching the adults. Recent research indicates that living close to high-voltage transmission cables also increases the chances of leukemia and other cancers.

The fact that the Office was experienced as an irritant was, as expressed by the Minister of Consumer Affairs and Government Administration (August 23 1989), part of our job, and so cannot be seen as negative. She went on to say that even if this were the case, we should realise that the Ombudsman was considered a positive 'pusher'.

NON-GOVERNMENTAL ORGANISATIONS (NGOs)

There is no doubt that the non-governmental organisations have a role in the Norwegian decision-making process. They are, for instance, asked for opinions (hearing statements) on proposals concerning issues of concern to the individual organisation. Compared with other countries, however, there are few non-governmental organisations concerned only with child-related issues. Melton puts it this way: 'it became clear to me that strong interest groups on children's issues were non-existent in Norway, unlike the other Scandinavian countries'(ms.p. 39). He continues to point out that Redd Barna (Save the Children) only started domestic advocacy in August 1989 after a task force including the Ombudsman had prepared a proposal to the organisation's annual meeting. Mental Barnehjelp is primarily an organisation for parents, but rather narrowly focused on child mental health, the Norwegian Housewives Association does not have strong influence in the ministries, and 'the most powerful group on children's issues probably is Norsk Larerlag (the Norwegian Teachers Association), but its role as a labour union for teachers also diminishes it as a credible defender of children's interests' (op cit, p. 40). Not included in this description are the organisations

with children as members, the political children and youth organisations, sports clubs/organisations etc. even if these can be powerful spokesmen on their own or through 'parent' organisations, for example, political parties. The Ombudsman met several times with the National Council for Organisations for Young People, to inform them of the Ombudsman and to encourage them to take on this kind of challenge, suited to the way of working of each. Other organisations include children, and may even have special programmes for children within their general field of work, such as the 'Safe Traffic Organisation' and the Norwegian Organisations for the Handicapped. Other organisations, such as UNICEF, again work for children in other countries, but not for Norwegian children.

Non-governmental organisations in Norway rarely take over responsibility for social work or child welfare, even if some activities were originated by those organisations, for example, many nursery schools and kindergartens. The opposite situation, with public services taking over what independent organisations have started is more common. Public services in a welfare state are expected to take responsibility for many activities carried out by independent organisations in other countries. Yet there are a number of these organisations, and it was obvious to the Ombudsman that many could be valuable partners in various efforts.

The general impression is that the organisations were positive when the Ombudsman suggested some kind of collaboration, but more rarely asked for support themselves. There were some exceptions, mostly small organisations that wanted the Ombudsman Office to act as the Secretariat for their own interests, if necessary to the exclusion of other issues, and were hurt when this turned out to be impossible. Other organisations were willing to cooperate on projects within their field of interest. And some were grateful when the Ombudsman initiated contact between the organisations and between organisations and authorities. In rare cases disagreement about one issue could make collaboration on a different issue difficult - a kind of negative 'halo effect'.

The lack of independent organisations was a problem when we wanted to mobilise support on a special issue and could not find it. If, for example, there had been a strong organisation for the elderly, or for grandparents, its support would have been valuable, perhaps even tipping the balance in favour of the Ombudsman's proposal for strengthening the rights of grandparents.

A consideration in working with one or more non-governmental organisations was the question of whether it would be most effective to work from inside or outside the organisation group. When a group of organisations and several ministries joined forces to work for accident prevention, the Ombudsman was asked to serve on the working committee as vice-chairperson. I felt that in that capacity the Office would get valuable information and

could contribute to the status as well as the work of this group. After three years, however, when I left office, I asked the working committee to consider whether the efforts of the group *in collaboration with the Ombudsman* would have a stronger effect than having the Ombudsman as a member of the group. In similar fashion I felt that the 'Action for Children' movement might have more effect if they could say they were working with the Ombudsman Office, not having the Ombudsman as a more anonymous member of its Advisory Board.

THE MASS MEDIA

The press was one of the Ombudsman's most valuable partners. Television and radio wanted news spots when the Ombudsman had made a controversial statement, but rarely reported press releases, perhaps because I was reluctant to formulate 'headline style' news. Protection of the children's identities and integrity was very much 'in the way' when weekly magazines or tabloid newspapers wanted case histories. Also, success stories were difficult, because the development of cases often took time, so that by the time a 'success' could be recorded, the beginning of the story was 'old hat'. Stories of the kind 'we were desperate, went to the Ombudsman, and the day after all our problems were solved!' simply did not occur. Also, the complexity of issues, the often difficult interrelationships between children, parents and society should not, in my opinion, be over-simplified. Part of the Ombudsman's responsibility to inform must lie in pointing out the complexities and therefore the joint responsibilities concerning children. It would be incorrect - and unfair - to say, for example, that 'it's all the parents' fault! They just don't care about their children - look at the child welfare statistics!'

The daily papers were a different matter. Increasingly, national and local papers printed our press releases and called the office for opinions. The number of clippings indicated both the contents of the press information and the general interest. The clippings we received would cover about 60% of the total number of items. The number of clippings was approximately 1600 in 1982, most about the Office which was then 'news' in itself. After that, the content changed to reports on statements, opinions, lectures, and public appearances. In 1984 the number of clippings was 1050, in 1988 over 1800.

RESEARCH INSTITUTIONS

When empirical evidence was needed,staff members would naturally turn to members of the Advisory Panel, to colleagues or to other sources, for example research institutions. When hearing statements were being prepared, our experience was that often the sources asked could not give us the

information we needed quickly enough, in time to be useful before the deadline of the statement. In other cases they were, of course, of great help.

Concern for children was expressed through the establishment of a number of research institutes and research programmes during the 1980s. The Norwegian Centre for Child Research (Trondheim) was established in 1983, partly to act as a coordinator for the research being done in many other institutes, universities, and research groups. The Ombudsman and the Centre established close connections informally, but also by having Advisory Panel meetings with the Advisory Board of the Centre. The Centre for Child Welfare Research (Oslo) and programmes for research within other research institutions were initiated by the Ministry of Health and Social Affairs and the Ministry of Consumer Affairs and Government Administration. The latter research programme had the 'Head of Division' from the Ombudsman Office as the chair of its steering committee. The Ombudsman Office had direct contact with the children's environment programmes at the Norwegian Institute for Urban and Regional Planning, the National Institute of Public Health, the State Pollution Control Authority and the Institute of Transport Economics.

The Ombudsman Office gradually gained insight into which areas needed further research, where research was missing. This was conveyed to ministries and research institutions, and sometimes the institutions would provide the necessary research, for example on how children are taken care of during summer vacations. On the whole, however, the issues were too complicated for short-term research, so what we could hope for was results in the longer term and a better coordination of research efforts. In Norway, policy decisions are to a large extent based on research results, and social planning is strongly influenced by information from social scientific investigations. As one example, the Centre for Child Welfare Research was established to investigate how the system works with the purpose of proposing changes based on the research results of the Centre. Research institutions can have a major impact on policies over a longer time, so for the Ombudsman it was important to influence the choice of research areas.

Appraisals Initiated by the Ministry

THE FIRST APPRAISAL: 1985

The first kind of outside appraisal of the Office came when my first term was approaching an end. There was no longer any political support for the abolition of the Ombudsman Office; even members of the opposing parties had by that time publicly supported it. The advertisement of the post (in the spring of 1985) was formulated to indicate that the responsibilities of the Ombudsman would be reconsidered during the next four years. An attempt was made to replace me with a person considered politically neutral after I

was publicly accused of giving opinions based on party views. This would have gone against the non-party political definition of the Office. The cases used as examples were the Abortion Act (which had been adopted in 1978 and had not been under discussion since), the Alta Power Project Plan, the proposal for legislating Lutheran religious education in all pre-schools, and the Council of State's report to Parliament on family policy. The Alta (a municipality in Finnmark) power project had been referred to the Office in 1982, asking what effects the building of a big dam with the power plant attached would have on climate and other conditions for children. I had shelved the case, finding no research basis for a considered opinion. Opposition to legislation of religious education in the preschools, while being in accordance with the Labour Party views, was based on professional reasons, (see p. 94). Concerning the Parliament Report on Family Policy, my statement supported suggestions from several political parties (see p. 128). The Council of State reappointed me, for a second (and final) term in June 1985.

Later that year the ministry asked for a total evaluation of the Act, Instructions and experiences, but did not follow up with the specifications I asked for. Thus, there seemed to be little reason to spend time answering questions the ministry had not posed, perhaps at the same time neglecting to answer the questions which they felt were important, particularly since the annual reports, submitted to the ministry, gave broad information about the case load as well as the actions of the Ombudsman.

MY OWN EVALUATION: 1988

In late 1988, the change of Ombudsman being imminent, I was asked for an evaluation of the Act and Instructions. In my opinion, these documents functioned well as a basis for the work of the Ombudsman, providing both the necessary flexibility and the necessary restraints (see detailed discussion, Chapter Five). I suggested that it would be advantageous to have the term in office commence in January, not September. Since the term coincided with election periods, the appointment of a new Ombudsman might become more of a political issue if it occurred in the midst of a general election campaign.

I also suggested that the ministry might consider empowering the Ombudsman to postpone decisions by municipal Councils for one month in cases concerning children, if the case had been brought to the Ombudsman too late to allow proper handling before the Council meeting. Very many of the municipal cases were brought to the Office just days before the final decision was to be made, leaving no time to get the documents and prepare a well-informed statement. For the municipalities, which have Council meetings monthly, it would, at most, mean postponing the decision until the next meeting (with the amendment of the Building and Planning Act in August 1989, legislating municipal responsibility for considering the needs

of children in all local planning, this idea lost some of its immediate importance).

My final suggestion concerned the Advisory Panel. The Panel was supposed to meet at least four times per year. Participation declined, however; an issue that was discussed with the Panel. The members had no real responsibility, and the need for practical advice on how to handle cases decreased as the Office gained experience. Panel meetings became in a sense 'mini-seminars' on topics of interest, and always provided valuable support and ideas. But the work connected with meetings took so much time that the staff wondered if the rewards were worth the effort and time involved. I felt that it would have been more helpful with a Panel consisting of 25-30 members, a kind of 'bank' or 'experience-pool' from which a selection of members could be drawn to discuss, for example, professional problems for which the Office lacked competence.[72]

THE MINISTRY'S OWN EVALUATION AND MY RESPONSES: 1989

When I had submitted my evaluation of the Act and Instructions, the Ministry of Consumer Affairs and Government Administration prepared its own evaluation. In general and on nearly all specific points, this evaluation was positive. It did have some criticisms. It was said that too much time had been spent on individual cases, leaving insufficient time for concentration on cases of general interest (this situation is discussed in Chapter Three, p. 72-75). Also, the ministry felt that the Ombudsman had given too many hearing statements, at times straining the issue in order to show that the proposal did indeed have something to do with children. Looking at the list of statements (see Appendix Three), it obviously covers a great variety of issues. However, one of the objectives of the Office was to point out that children are involved and have to be considered even in areas where this is not common knowledge. Some of these statements are comprehensive and detailed, for example the statement on the effects on conditions for children of block grants from the national to the local administrations. But a hearing statement might also consist of only a few lines, when the Ombudsman did not have additional or critical remarks, or referring the proposal to other, more competent bodies. In the records, this kind of 'non'-statement was recorded as a statement.

A different point made by the ministry was whether some of the statements were too detailed, with the result that the general opinion of the Ombudsman was obscured. Aware of this possibility, all extensive statements were opened by a summary, presented as the first page. Many statements truly *were* detailed, as part of our policy to present the research data on which our views were based. The use of social science research focuses attention on *children*, on what is known about their needs, and our statements would point out the consequences which this knowledge should

have for policy. The necessity of such a strategy was sharply brought to mind in May 1982. As a reaction to one of the very first statements, the Ombudsman was criticised in the Storting for disagreeing with the Council of State views (Kristiansen, May 1982). The minister replied that this was the right of the Ombudsman, but that she hoped 'The Ombudsman in future would base her opinions on objective fact.'

Yet a different point of criticism was the danger of raising issues already being considered by the ministries, and of 'flogging dead horses', not giving in or up gracefully when a case was hopeless. The ministry particularly pointed to the issue of moving the newscast in TV to a later hour, the issue of umbrella legislation for children and/or the establishment of a new Ministry of Children and Family Affairs. The choice of examples did not really prove the point. The Office had done nothing to get the newscast moved since 1986 (see p. 116). Nor had 'umbrella legislation' for conditions for children been reproposed since 1986, except being referred to when the first proposal for a ministry was made in August 1988, and only followed up once, two weeks before I left office.

Visible and Less Visible Results

CHANGING EMPHASIS TO PREVENTION AND RIGHTS

Over the years there was a change of emphasis in my own approach. My previous professional thinking and experience had focussed on the individual needs, strengths, and vulnerabilities of children in order to help those children who in some way were not 'normal', struggling with disabilities or developmental lags. Children's needs and vulnerabilities at different stages of development were still basic guidelines, now supplemented by the sociological and legal views of the other staff-members and information from other sources.

As we gained experience, the point of view of the Office increasingly emphasised preventive measures, possible within the societal system in which we worked. It also became increasingly clear how the conditions for parents change. Being a parent is more difficult now than many people realise, as demonstrated by the lack of complementary and supplementary support systems around the family. Many of our statements would aim at showing how changes within a society or increase of knowledge may lead to conditions which have negative consequences for healthy growth and development.[73] Some changes threaten or are already destroying valuable aspects of the environment which are not recognised as true values until the loss is a fact. When the loss is evident,[74] such changes can necessitate changes in the balance between parental and public responsibility for children.

The other shift of emphasis concerned *rights* for children. With the needs of children as our starting point and seeing how often these needs were

neglected, we were increasingly led to the question of legal as well as moral rights. As a group, the staff shared a conviction that children and young people are equal to adults in value; they need special consideration, but should have equal rights. But 'equal' rights is not an unequivocal concept. Children have some 'equal' rights simply because they are human. But human rights in general are not enough, partly because general human rights do not take into consideration the special needs and vulnerabilities, and the special needs for protection and care that children have. Also, even when human rights do not exclude children, some of them are still denied to children, for example the right to expression of opinions or the right to participation. Finally, even if a country like Norway ratifies a convention on human rights, it does not follow that decision- or policy-makers necessarily use an international convention of this kind in their decision-making process, at least so far as children are concerned.

It seemed increasingly clear that legislation for children's rights must be strengthened, not least because the tradition in Norway of using legislation to improve conditions, particularly for weak groups, has a long history. Once the Storting has adopted a new law, one or another of the ministries is responsible for implementation, and information and the development of whatever regulations and instructions that law might require.

We learned that there are at least two main streams of opinion about the use of national legislation. One claims that legislating a right is of no use so long as implementation is impossible. A right is of no use if claims based on the right cannot be met. If the right to preschool education were to be legislated, this would only be an illusory right so long as the municipalities (or the state) are unable or unwilling to put up necessary funds for the preschools.

The other school of thought says that a purpose or an ideal is publicly stated in a binding way through the laws. Legislation is a translation of attitudes and values and can be used to change attitudes, which was why the 'corporal punishment' amendment was adopted (see p. 86). Thus, by legislating the right to preschool, the nation commits itself to providing preschools, states an attitude about the value of preschools, and perhaps accelerates the process of establishing preschools. Thus legislation may have value, even though it may take years to fulfill the right or claim of each child.

The rights and needs of adults are well taken care of in laws concerning community planning, employment, and welfare benefits. Similar rights based on the needs of children hardly exist. A main concern was eventually that legislation concerning the rights of children, while improved over the years, was still weak as compared to legislation governing the rights of adults. The rights of children are often

a) *indirect* - the right is given to an adult (often the parents) on behalf of the child, or to the child through the adults, which means that the child

has the right only to the extent that the adult is willing to cooperate or inform the child of the right

b) *conditional*, often in the sense that the right is only valid under certain conditions, for example, that funds are available, even when similar rights are not, at least in legislation, made conditional for adults

c) *non-existent*, even in connections where adults, under very similar, even identical conditions, have clearly stated rights, and where there is really no reason why similar legislation should not apply to the younger generation.

Norwegian health legislation provides examples of the two first weaknesses. By law parents have the right to take their child to Well Baby clinics or health centres. Ninety to ninety-five per cent of all parents exercise this right. But nothing happens if a child is not brought to the clinic after the public nurse has visited the family. The small group who do not come may well be the children who actually need this service most; babies with parents who neglect them or who are ashamed to have a child not developing according to expectations. The parents may be ignorant, ashamed, or frightened. But the child may be the one to suffer. As the issue involved is really the health of the child, would it not be more reasonable that the right to health care was the right of the child? In practical terms, a law amendment, making the child the subject of the law, not the object, would make little difference in a country where a very high percentage of children are brought for check-ups. Few parents would feel that their own rights were threatened, even if the amendment would imply that the parents would lose a legal right, but retain the responsibility for obtaining the service for their child. The public health services would then be obliged to provide such care, even if the parents objected, when they neglected their duties.

School legislation provides an example of the third weakness, namely the non-existent right for children to have the same protection in their 'job' as the adults have in theirs, even when there is no reason why children should not have rights similar to the rights of the adults. As described in Chapter Three (see p. 103, 107) teachers - as employees - are protected by the Protection for Workers Act; they have representatives with authority to stop work if conditions are dangerous - to the employees - and their jobs are well protected by the School Act. No similar rules apply to the pupils, regardless of the facts that children are more vulnerable, less able to speak up for changes in their situation and vastly outnumber the adults.

ACHIEVEMENTS

A Channel for Children

The most novel and one of the most important effects of the Ombudsman Office was giving children an opportunity to express their own concerns.

Some feel that such a possibility may entail 'fooling children' into believing that they can have an impact on their conditions. But where else can children go? They can - and very often do - go to parents, teachers, organisation leaders or friends, who may or may not take the problem elsewhere. Some children can turn to local services, including churches or lower level courts. What they do not have is a service to which they can turn if or when the instances they do try cannot or will not help. As noted above, children cannot use organisations, the media, or other means available to adults. Another question which may be asked is: why should children have ambassadors, or adults to take over responsibility, when children can very well handle the responsibility themselves, given an opportunity?

Also, why should they be fooled? In turning to the Ombudsman, they never get a promise of success, only an assurance that the Ombudsman will consider their complaint seriously, and do whatever can be done if the complaint seems reasonable. Children are sensible and rational, often more so when they are not speaking to or arguing with their parents. They very often understand the Ombudsman if he has arguments against their cause which they perhaps have not thought of. They also recognise the difficulties of achieving results when these are explained in a way the children can understand. And finally, but most important of all, children can and do have an impact. Some of the major cases of the Ombudsman were brought up by children, some even leading to legislative amendments. And they certainly would not have had such an impact without having the opportunity to turn to the Ombudsman.

Networks

Another important, although not so visible, effect was a 'bridge-building' between organisations, between organisations and administration and between different branches of local and national administrations. Because the Office is unhampered by bureaucratic 'rules of the game' and is independent, it is possible to establish contacts between sectors and individuals where this might be difficult for others. Since the Office is independent of political leadership and political changes, it also helped bridge the gap that might have occurred with changing Councils of State. Most important, however, was the bridge created between children and the top-level decision-makers.

Changes in Rules and Legislation

The ultimate, but unrealistic, goal of the Office was, of course, to change attitudes all over the country in such a way that the Office was no longer necessary. It was equally obvious that the steps towards this goal must be small and directed at circumscribed problem areas. Some were obvious; Norway had a number of statistical records of which there was no reason to

be proud: the highest accident rate for children, a higher neonatal mortality rate, the shortest school day for seven- to ten-year-olds in Scandinavia, the lowest percentage of preschool children in nursery schools and kindergartens in Europe. These more concrete problems and the work done with them were steps in changing attitudes and recognising children's needs, but also problems in the face of which the Office obtained the most evident results.

There is a clear public recognition, for example, by the Minister of Consumer Affairs and Government Administration in August 1989 and confirmed by Melton's interviewees, of the role of the Ombudsman in achieving the following measures:

1. Legislation prohibiting physical punishment and physical and psychological treatment threatening the physical or psychological development of children. Proposed by the Child Abuse Report Committee in 1982 it would have been adopted at some point anyway. But the Ombudsman was responsible for taking this item out of a much larger context, and keeping it alive under three different ministers; so it is reasonable to believe that the Ombudsman's efforts were important in bringing the proposal to the Storting. Our most important effort was, however, not so obvious: the work we did in the Storting and through the press to lay the foundation for an interpretation of the law which was imperative if the law was to be an improvement (see p. 86)
2. Restrictions imposed on the distribution of videos (see p. 118)
3. New regulations concerning the rights of hospitalised children (see p. 88)
4. Raising the age at which young people can be tried and sentenced by adult courts and imprisoned in adult prisons (see p. 82)
5. Building regulations for safe housing and accident prevention in the home (see p. 122)
6. Regulations for child safety in automobiles (see p. 143)
7. National, governmental guidelines for taking the needs of children into consideration in all urban and rural planning (see p. 145)
8. Recognition in legislation of children's right to know both their parents, regardless of marital status or whether the parents actually lived together at all after the child was born (see p. 133).

There are other results in addition to these, some of which have been reported since I left the Office. The work for asylum seeking children (see p. 89) had not brought results that I knew of, but 'along with Redd Barna, the Barneombudet receives credit from all concerned for the fact that the issue is on the national agenda at all' (Melton, ms.p. 62). Melton also summarises, on the basis of his survey, the impact of the Ombudsman on the municipal level:

> In fact, although it is difficult to document, the greatest impact of the Barneombudet may have been on the local and county level. The Barneombudet has had substantial impact in the development of structures for implementation of child-sensitive policies. Even though the personnel has not been available to do follow-up in the local communities, the habit of sending copies to local officials and media probably has had some effect in the process of deciding such questions - and, with personnel to do follow-up with local and county officials, could have more effect. As Marianne Borgen, the current deputy Barneombud summarised, 'The local discussions are different after we come into the case . . . We make children visible' (Melton, ms.p. 68-69).

This confirms my own impression. In dealing with local administrators, it was increasingly clear that very many of them (and their counterparts amongst politicians) have inadequate knowledge of the needs of children, their behaviour patterns and the impact of trends in society on conditions for children and their families. The Ombudsman may be alone in analysing the effect of a proposed measure from the point of view of the consequences for the younger generation. (This was very much true on the national level as well.) Many institutions were simply not aware that matters they dealt with had any influence on children at all. And the responses to opinions and statements were positive, even if a statement did not change the outcome of the issue in question. The information it contained would be received with gratitude, and might have an effect the next time a similar issue came up.

Could, then, the Ombudsman as one player in a larger team have been removed? Would the goal score have been the same without the Office? Even that question is difficult to answer. My own belief is that many of the goals, particularly the legislative amendments, might have been scored, but perhaps not yet. In some cases it would clearly have taken more time, because the Ombudsman could keep issues (eg the corporal punishment issue and the planning regulations issue) alive, keep the ball in motion, in periods when this was difficult for others. In other cases the Ombudsman could raise issues that would be difficult for others to raise, setting a ball in motion earlier than would otherwise been possible.

Apart from the specific issues mentioned it is not possible to determine whether the Ombudsman for Children has had an overall effect on conditions for children. But the changes that were effected are, as parts of a larger picture, indicative of a process in which children are more visible, the concerns of children voiced more clearly. Acceptance of new hospital regulations and of child representation on the local building boards demonstrate a will to create structures which may have major consequences in the long run, if implemented seriously. There is no clear evidence that consideration of children in terms of taking the necessary policy decision has improved *substantially*. Nor do I know how this could be measured. But progress has

been made. Most important, perhaps: consideration for the needs of children has not declined, during a period when there are other strong forces counteracting the interests of children. Two of these forces should serve to illustrate how difficult a total evaluation must be: the continuous and increasing financial problems within the country and the municipalities, and the increasing proportion of elderly in the population.

Notes

65. Even though there are more newspapers per head in Norway than anywhere else in the world, research indicates that 80% read headlines only, 90% read headlines and captions.

66. Gary Melton, University of Nebraska, Law and Psychology Programme, author of 'Child Advocacy' and numerous articles on child advocacy. Fulbright scholarship autumn 1989 to study the Norwegian Ombudsman for Children, connected with the Norwegian Centre of Child Research. For his study of the Ombudsman, Gary Melton followed up nine major cases handled by the Office, interviewing senior government officials and researchers who had been identified as key persons on each case. In addition, some individuals were interviewed about their general knowledge of the Ombudsman, and wideranging interviews were conducted with staff members, advisory panel members, scholars and advocates central to policy debates - altogether more than 50 informants (Melton, *Lessons from Norway*, in press).

67. MMI polls never include persons under 15 years of age. The questions about the Ombudsman were part of a larger questionnaire, including, for example, questions about products/marketing, political opinions.

68. When asked if they knew of an institution protecting the interests of children, 63% said 'Commissioner for Children', 11% either 'Commissioner for Child Welfare' or a similar term - misnomers very common in my experience. As a speaker I was introduced as, for example, 'Commissioner for Child Welfare' many times.

69. Trond Viggo Torgersen, a physician and teacher, and a public figure through his work in television.

70. A Belgian criminology student who spent three or four months in the office in 1988, and wrote her thesis on the Norwegian Ombudsman model.

71. The past tense is used here because this ministry was renamed in 1989 and again in 1991. It is now the Ministry of Children and Family Affairs. Its formal relationship to the Ombudsmen Offices has not changed.

72. The suggestion made by the ministry in 1989 was to change the rule of chairmanship, so that instead of having the Ombudsman serve as chairman, the Panel should elect its own chairman. The outcome of this proposal was not clear in December 1989, and no new Panel had been appointed for my successor by January 1990, the previous Panel having completed its term in September 1989.

73. Increased knowledge about disease and hygiene led to the isolation of hospitalised children from their parents, with devastating psychological consequences. New knowledge brought out the 'old truth': Children need to be with their parents when ill, even - or particularly - when they are in hospital.

74. The value of having siblings was a value not really appreciated until families no longer had more than two or at most three children.

Chapter Five

Lessons to be Shared

In the coming years all countries will face the need to monitor conditions for children. Countries that ratify the UN Convention on the Rights of the Child have an obligation to submit regular reports to the international Expert Committee. But even countries that do not ratify will be under increasing pressure to keep a sharper eye on conditions for children within their boundaries. The Ombudsman model is one instrument, one possible alternative model that may be useful in many countries. Questions are being asked, for example;

- Would an Ombudsman for Children, set up like the Norwegian one, work in other parts of the world?
- What made it work? Are there specific or tacit principles which were crucial in order to obtain the results of the Office?
- How could the Office have been strengthened in order to have more impact?
- What variations or changes might make this model more suitable in other settings?
- Can other ways of working for the rights of children be compared with the Ombudsman and what do they have in common?
- Do other ways of working for children have advantages which the Ombudsman model does not have?

Or, summing up: which experiences of the Norwegian Office can be useful for other countries trying to strengthen or establish their means for improving conditions for children and working for the rights of children? Are some elements and experiences more important or relevant in some countries, others in other countries?

These questions are complex, related, and not easy to answer. Other questions are more rarely asked, but may be even more basic; for example, is or was the Ombudsman Office really working for children? Do children really need some person, group or institution to work for them, in addition to or instead of their parents? Or beyond the existing public and private agencies providing services for children? If the answer to one or both of these

questions is 'no', the question of child advocacy in general and of an Ombudsman in particular would certainly not arise.

Facilitating Factors and Potential Constraints

The arguments against establishing an Ombudsman for Children Office are now coming up in other countries. These can be summarised as follows:

- The Ombudsman would threaten parental authority
- The Ombudsman might become an excuse for other groups and bodies responsible for children to diminish or relinquish their responsibilities
- The funds allocated should rather be used to strengthen other existing efforts or services for children.

These arguments are not heard in Norway any longer. Experience has shown that there was little reason to have these fears. Now comments are positive, ranging from 'useful' to 'very, very important'. What were the important factors for this change?

Part of the reason was that the fears were known before the Ombudsman Act and Instructions were adopted and could therefore be counteracted in various ways through the legal instrument governing the Office. But there are other reasons as well, which are important experiences, useful to others working for the rights of children.

The main facilitating trend is the fact that children are gradually being recognised as a politically important issue. Slogans such as 'Without children, the country will stop' and 'Children are our most valuable resource' are beginning to be more than just slogans. The new Convention is a recognition on the international level of the importance of children. With it, groups and individuals working for improvement for children have been given a new and powerful tool in relationship to their own governments, because of public, top-level commitment to children. But even an international Convention cannot in itself secure good conditions for children all over the world. Implementation on the national level is the important factor for improvement. Some conditions that need improvement are universal, others differ from country to country. But whatever the most pressing problems are, whatever is being done, there is always reason to ask: 'What else can be done?' And: 'Is what is being done good enough or how can it be improved?' Keeping up this kind of pressure, not letting anybody in control think that the questions no longer need asking, is the purpose of Ombudsman-type efforts everywhere.

Evidently an Ombudsman for Children exactly like the Norwegian one is not going to fit neatly into the system of every other country. Arguments used to explain why this model was chosen in Norway and may not be applicable elsewhere, are that Norway:

- is such a small and relatively homogeneous country
- has a multiparty political system
- has a long tradition of using legislation as a tool for improving the living conditions for weak groups of the population.

It certainly helped the establishment of an Ombudsman for Children that Norway also has a long tradition of respect for Ombudsman advocacy, as evidenced by the establishment since World War II of three other public Ombudsman Offices.

Some have pointed out that the Ombudsman Office could work because Norway has a very high literacy rate and a very well-developed telephone and postal system. These factors certainly defined some of the methods of work of the Ombudsman, but not the issues with which we were concerned. The other factors may be more serious, some saying that precisely these traits might make the existence of an independent office of this sort less suitable in other larger and more diversified countries where legislation is not in the same way respected or implemented, or where general participation in the decision-making processes on the local and national levels is not so common. In choosing a strategy for children, the Ombudsman model does fit to an extraordinary degree the decision-making process in Norway; the reliance of decision-makers on experts, the lack of alternatives such as non-governmental organisations working for children, combined with the gaps in the social systems, particularly at the 'cradle' end of the 'cradle-to-grave' security networks (Melton 1990). All these factors certainly facilitated the establishment of an Ombudsman for Children, but thinking in terms of other countries, how important are they? Does a country have to be like Norway to make the establishment of an Ombudsman or an Ombudsman-like model feasible? If so, why do other small, homogeneous, multiparty countries not have such an institution? Even Sweden and Denmark, which have an even longer Ombudsman tradition than Norway, have NOT established an Ombudsman for Children.

Are there then, other factors of greater importance than country characteristics, such as size, to be considered in the establishment of an effective mechanism to improve conditions for children?

From the beginning there were some trends and factors working in favour of the Ombudsman for Children Office, and others which caused difficulties or were ambivalent. Some were temporary, others more permanent. In spite of mixed feelings, the very fact that the Office had been established worked in its favour. This was one expression of politicians where these politicians had confirmed their alleged concern for children with positive action. Later, one of the main objectives of the Ombudsman was to point out when politicians were *saying* they were concerned about children, but *doing* little or nothing about it.

Being new and somewhat novel worked both ways: it was positive because the lack of public image allowed the creation of the profile we wanted and because it created the general interest; it was negative because there was no established platform, no pool of experience, no task descriptions from which to proceed.

Having a multiprofessional staff was a definite strength. But the small size of the staff was an obvious limitation, particularly in view of the wide mandate the Office had been given. (Sometimes I also felt that the level of commitment might be working against us, because the workload which each staff member was willing to take on concealed the very real need for more help.)

The wide mandate in itself offered opportunities for picking up nearly any issue considered important, but also created problems. Having no special law or sets of laws to defend there was no clear framework for what the Office was *supposed* to do. Almost any problem touched upon might raise the question of the legitimacy of action of the Office. The targets could be unclear, other than the general target of improving conditions for children. Also, defining priorities was a constant dilemma. Goals clearly defined in the Act or elsewhere would have helped in the constant choices between individual and more general cases, between different areas of concern, between pressing short-term issues and the need for long-term planning and sustained effort. In addition, more measurable results would have been easier to obtain against the yardstick of precise responsibilities.

Other constraints may or may not be applicable in other countries:

- very small resources. In addition to a small staff, there was little funding for publicity, publications or travel, and no funding for research commissioned by the Ombudsman. In discussing how an office of this type could be strengthened, it is obvious that a larger budget and more staff would be important. In addition, a research institution obliged to generate the kinds of data needed, for example, practical indicators for conditions for children, would be exceedingly useful
- ambivalent support from the ministries, which of course is better than no support at all and perhaps better than it might be elsewhere
- trends in society which made working for children more difficult, for example, the development towards local independence and the increasing economic difficulties on the local as well as the national level, particularly combined with the great growth of the population of elderly.

In spite of the constraints, the Ombudsman for Children did have an effect. The Ombudsman Act and the Instructions turned out to be useful tools, providing flexibility and restraints. Experience showed that there were elements in the total pattern which proved to be more important than others

and which might be useful in considering whatever system one wants to use, in child advocacy in general or in monitoring the implementation of the UN Convention in particular.

The Autonomy of the Office

Autonomy secured through legislation may not be as important as autonomy in itself. But there are definite advantages connected with the combination of autonomy as expressed in the Act and Instructions and the responsibility given to the institution:

a) Established by the Storting, the superior decision-making body gave public and official recognition to the need for child advocacy, asking for criticism, advice, information, and support. By having the responsibilities of the Office based in its own Act, the Ombudsman Office is permanent until the Storting revokes the Act, regardless of shifting political majorities. It can also therefore represent and create a certain continuity in policies for children, and bridge gaps between changing political majorities. Even a less child-oriented government will always be reminded of children and the importance of considering their needs.

b) In spite of the fact that the Storting established the Office and provides its annual budget, the Storting cannot instruct the Ombudsman, except through the restrictions in the Act and in the Instructions. Both can be changed, by the Storting and the Council of State respectively. (The question that might be asked is whether the Storting, by providing such a small staff, has restricted the possible impact of a *strong* Ombudsman, giving 'lip-service' but little actual support to the Office.)

No other body, administrative, organisational or individual can decide *what* the Ombudsman can do, or how the Ombudsman shall carry out the responsibilities outlined in the Act. The Ombudsman has, by legislative consent, an obligation to criticise any administrative level, any group, organisation or person (except parents in their role as individual parents) disregarding or minimising the interests of children, regardless of any other considerations. This means that the Ombudsman can raise issues impossible to raise for others bound by loyalty to political leadership, or in the face of political opposition (in fact, 'Middle-level officials have perceived the Barneombudet as an avenue for presenting ideas that may be important in protection or promotion of children's interests but that lack support of the officials with ultimate authority', (Melton, ms.p. 22)). A political majority can stall an issue, but the Ombudsman can set in motion a process, so that the issue may be resolved at an earlier date than otherwise possible.

Being free to handle any case or problem in any way considered most effective, the Ombudsman can alert a Council of State member, the Storting members or the highest level civil servants, allowing an issue to reach the

uppermost possible level of consideration. Opinions and statements may also be distributed widely to the mass media, irrespective of political consent, informing the public and creating difficulties for politicians and decision-makers wishing to disregard or being in danger of disregarding, the interests of children.

The other side of the 'autonomy and freedom' coin could be isolation. Good contacts and connections with others (ministries, research institutions, professional organisations and non-governmental organisations) are vital, and particularly necessary when the staff is small. If the Ombudsman Office had its own research 'arm', connections with other research institutions might have been somewhat less important. If the staff had included people who could do literature surveys, compile existing information, or do more of the public information work wanted, the Office would have to rely less on others for help. However, collaboration with others, in order to maximise the collective efforts, would have been important in any case. And the freedom from bureaucratic rules in particular opens the possibilities for untraditional contacts, non-bureaucratic methods and novel constellations of cooperation. These opportunities should be used also to open up channels of mutual information and communication. In the field of working for children there should be no room or reason for self-protective competition, for example, between non-governmental organisations or between ministries. Productive competition may, on the other hand, be a good thing.

The Single and Unique Purpose

The Ombudsman for Children has one single purpose: protecting and improving the interests of children.

An Ombudsman for Children or any office like it must have the interests of the child, and no other interest, as the starting point, the focus and goal of its work. The interests of children and their parents are in many cases impossible to separate. But even when the Office suggests or supports measures for parents, this should be done with the needs of children as the basis, the proposal made in order to benefit the children, by enabling parents to function better as parents. Working for parents or for families is therefore very possible and very necessary. With the interests and needs of children as the basic consideration, it is easier to avoid:

- supporting causes which many adults would support regardless of the importance to children, perhaps using children as an excuse, or
- conflicts that easily arise when the issue touches on conflicting interests amongst adults.[75]

In my opinion an Ombudsman must not be suspected of having a hidden agenda, nor must there be grounds for suspicion of a conflict of interests. Particularly since the Norwegian Office is legislatively and financially inde-

pendent, there is no reason why the Office should serve any other cause. The Ombudsman for Children has no obligation to balance the interests of children against other interests, for example, the elderly or to balance budgets on any level.

The question of whether or not the Ombudsman actually serves the interests of children is, none the less, more complicated than it might seem. As has been pointed out elsewhere 'child advocates act on behalf of children, but they do not always represent children' and 'the values underlying child advocacy are, I suspect, highly related to individual child advocates' general political, social, and religious views. Thus there is considerable risk of confusing whose interests are being advocated. Advocates may delude themselves into believing that they are advocating for children when in fact they are representing the interests of only a particular class of children or, like the welfare reformers, other interests altogether' (Melton 1987).

This is, of course, an important consideration and it is impossible to deny completely that the Ombudsman for Children might have fallen into this trap. But I do believe that certain elements counteract gross misconceptions of this kind. First, the independence of the office itself shields it from temptations and attempts at having the Office serve other purposes. Second, basing our advocacy on empirical data is another way of avoiding private opinions and personal feelings. When empirical data is missing, at least the professional thinking on which an opinion is based can and should be clearly stated. Third, we were acutely aware of this possibility, and therefore more able to avoid it to some degree. And finally, the Advisory Panel, representing different social, religious, and political views, could and would act as a corrective.

The fact that children did not always agree with the proposals of the Ombudsman may be an indication that they themselves did not always feel that the Office was representing them. Acting in 'the best interests of the child' does not mean that the Ombudsman automatically agrees with all children. Children have different opinions and different interests. The minority who turn to the Office may represent a minority view amongst peers. So the Ombudsman must take a stand on the issue, but also convey respect for a serious point of view and the child's right to disagree. When convinced, the Ombudsman would help fight for their cause, but would not do so until then.

The elements mentioned indicate that the person in office will have a great deal of responsibility for how the office works, and for the whole approach to this kind of work for children. The person in office must have some particular traits if the Office is to have an impact.[76] Even with a larger staff, the effectiveness of the Office will depend on the person responsible. Some might see a danger in personalising the Office in this way, but this is, at least to some extent, counteracted by the fact that no other authority,

organisation or group has any kind of obligation to listen to the Ombudsman or follow the advice which the Office might give. Thus, if the statements are not well founded, any statement or opinion could be simply disregarded. Also, the Norwegian term of office is four years, with the possibility - but no obligation - of a second term.

Availability/Accessibility

There can be no doubt about the importance of being easily accessible. This requires a general public knowledge about the Office, its willingness to help, to answer questions etc. Accessibility benefits the office by bringing in information, especially from the children. Attempts to establish Ombudsman-like offices and prohibit persons under a certain age (for example 16 years) from using them are weakened, for two reasons:

- if the Office is not available to children, it can easily be suspected of serving other interests, for example, actually becoming an Ombudsman for teachers (in the case of schools) or parents
- the Office would then only be able to operate on second-hand information about conditions for children.

Accessibility goes both ways: it means that information from the Office is available to others, for example, ministries and political leadership, and that the Ombudsman can reach the decision-making levels, nationally and locally. Combining these various aspects of availability, being accessible to children has the effect that the Office also serves as an avenue or 'open line' between children themselves and the highest levels of bureaucracy and decision-making. This is in contrast to many 'Children's Contact-telephones', 'Hot-lines for Children', or offices like the legal advice office in the Mannerheim League in Finland or in the Save the Children Office in Sweden. The importance of this connection is obvious when seen in relation to the official status of the Office and its legal obligation to submit opinions to exactly these decision-making bodies.

An office like the Ombudsman may not, however, *wish* to be accessible to all people at all times. While a 'Contact telephone' or 'local advice shop' obviously must be open to perform its duties, a small office can be swamped. With the good postal and telephone services in Norway, I felt that we were available enough, in the sense that children could get in touch whenever they wanted to, (in need, they would even call me at home in the middle of the night). This was supported by the population's general knowledge of the Office and the children's faith in the Ombudsman's ability to help. The decline in numbers of requests from children might indicate that we should have been more available. However, this is more a question of being known, and we did want to get more information about the Office to the population through television and radio. On the other hand, we did not want to be the

recipients of any everyday question children might want to ask. It was not our job to help with homework, be babysitters or answer all children's questions, for example, about sex, even though questions such as these might uncover a more serious problem, perhaps indicating that children spent too much time alone at home. If the Office had somehow been even more open to any kind of request, it might have been difficult to sort out the really important issues, particularly with a very small staff (one for every 250,000 minors) or even to have answered all telephone and postal enquiries. There is, obviously, a balance involved, between being accessible enough to get the important complaints and being so accessible that the office is too swamped to handle the important questions properly.

For me, accessibility to children was essential, and possible, partly due to the communications systems. In other countries, under other conditions this may be difficult or even be considered unnecessary, depending on the responsibility of the institution. If, for example, compiling and presenting statistics is the major task, children would not help much, unless the statistics should be supplemented with a 'real-life' picture of which conditions seem important to the children themselves.[77]

The Importance of Discretion

To the Norwegian Office the right to relieve others of their oath of confidentiality combined with the Ombudsman's right to protect sources of information were of great importance, increasing the availability of information to the Office. Opportunities for getting information which might be sensitive or difficult to convey without such rights were enormously strengthened by having them. The free access to all institutions for children was important in the same way, even if resources (time, staff and funds) prevented its use, except in very few cases (see, for example, p. 97). In many cases, other authorities, when notified, would have more first-hand knowledge and be able to report back on conditions that a visit would not disclose, for example, when the complaint concerned 'mental cruelty' to children in an orphanage. Even if these rights must be used with discretion and were not, in fact, used very often, the knowledge that we could do so was important to the plaintiffs as well as to the Office itself. And there was no rule against informing a plaintiff of these facts, particularly of our right to protect sources, if the impression were given that information otherwise would be withheld.

Discretion also meant that letters and calls from children were confidential. Even the fact that a child had turned to the Office was not told to anyone without the consent of the child. This was particularly important in relation to the press, which could get information about the problems raised, but not the identity of the individual plaintiff.

The Absolute Rule Against Getting Involved in Individual Cases of Family Conflict

On principle and in practice the absolute rule against handling individual cases of family conflict was imperative to the functioning of the Office. This rule was a relief to many parents (particularly when their children threatened to complain about parental behaviour). As has been described, having this rule did not mean that the Office did not receive that sort of information. It was also a great relief to the Office that the Ombudsman could not serve as a court of appeal for any other institution dealing with family conflict, for example, the child welfare system, divorce courts, family counselling offices, school psychology service etc. The information which the Office received, however, through complaints that had to be dismissed, made it possible to deal with the principle issues involved, such as procedures in divorce, the child's right to have his or her own spokesman in court, the need for pre-divorce counselling and the child's right to access to two parents.

Informal Guidelines

Some personal guidelines were developed or strengthened during the first few years, apart from the basic rule of ALWAYS asking, 'How is this going to affect children? (and nobody else)'.

REALISM

It was obvious from the very first day that we must be realistic. Ideal solutions are ideal, but cannot sway public opinion if clearly unrealistic. One of the basic characteristics of the Office was, on the other hand, the fact that even when we did see improvements, we asked ourselves: 'Now what? Can anything more be done?' Sometimes this led to taking a case one step further, for example, a child's right - equal to that of adults - of having his or her case handled according to accepted procedures (see p. 108-109) which finally went to the Ministry of Education, with a proposal that the result of the Ombudsman for Public Administration's ruling be made known to all schools and parents. Or it might lead to suggestions for implementation, for example, the follow-up on regulations for children in hospital (see p. 89). Like a 'watchdog' the Ombudsman must look at the present situation, whatever it might be, and suggest improvements, although it was often wise to wait and see, after a change, how the matter turned out and what others were doing, before suggesting further steps.

FACTUAL KNOWLEDGE

The statements of the Office must be based on factual knowledge, not hearsay, feelings or private opinions. In this way it was to some extent possible to avoid the dangers of serving other (perhaps unconscious) mo-

tives or purposes (see above). Particularly in cases where there was no clear empirical evidence for what is *really* in the best interest of the children, the Ombudsman had to be careful to base opinions on professionally sound judgement. The Office could not be expected to have all available knowledge, so a statement concluding that we lacked sufficient evidence was never regarded as shameful. Pretending to know or presenting positive opinions not based on professional knowledge would rapidly weaken the influence of the Office. Also, basing statements on empirical evidence as well as we could, left us less vulnerable to criticism for taking party political points of view. All opinions are political in the sense that they concern child policy. This did not mean that we could not give an opinion on issues that turned out to be politically sensitive, for example, the question of anonymous donors in artificial fertilisation (see p. 137) or the question of legislating Lutheran Protestant religious education in all nursery schools and kindergartens (see p. 94). Pointing out what needs to be done for children does not necessarily involve political choice. 'All children need peer group experience before the age of seven' was one such statement, based on reasons for the increasing need for organising this kind of learning outside the family. But while the availability and content of preschool education or other forms of good quality opportunities for social learning are important, the Office refrained from stating an opinion on whether or not nursery schools and kindergartens should be private or public - a subject of heated political debate in Norway.

We pointed to the need to know more exactly the expenses involved in bringing up children, and the effects of various possible ways of helping families. To be able to evaluate the effects of child allowances, child maintenance etc., it was necessary to know what raising children actually costs. But we did NOT suggest which of the possible measures (increasing allowances or child support; raising subsidies on, for example, milk and vegetables; decreasing fees in preschools; reducing taxes for families with children) should be used, since we did not have the research to indicate which measure or combination of measures would be most helpful. The politicians might be able to get information from other sources to help them weigh the likely benefits and costs of policy options. But the debate indicated that political convictions were at least as important as financial consequences, so the choices had to be up to the politicians (see p. 128). Lacking the professional capacity to undertake this task, we did, however, try to interest research institutions in finding the facts needed for a wise decision.

WHAT ABOUT POWER?

Many questions have been raised about the efficiency of the Office and its lack of actual power. The Ombudsman for Children does have the power inherent in being recognised as an authority on children, often synthesising

information or pointing out effects on children unrealised by others. But the Ombudsman for Children does not have the legal authority to seek enforcement of particular statutes or to reverse administrative action. In a comment on the Norwegian Ombudsman, Bob Franklin brings up this issue: 'The post moreover lacks political power since the Ombudsperson can make recommendations but is powerless to enforce them.' I do not believe that an office of this kind is utterly powerless. As evidenced by the media, it is not necessary to have enforcement power to be powerful. The changes brought about by or with the help of the Ombudsman Office clearly show that work of this kind is worthwhile, even without direct power to enforce recommendations. As the Jerusalem Children's Council, the Children's Interests Bureau in South Australia, the Children's Defense Fund in the USA and others have demonstrated, enforcement power is not a prerequisite for getting results. If the argumentation for a cause is good enough, information, persuasion, and cooperation can be sufficient. The next question is, of course, could the effect have been even greater if the Office had had more power?

Particularly with a small office, I personally would have been reluctant to say that MY opinion was the only right one, my proposals the very best solutions. Particularly in cases involving local government, we were aware that the local people had an in-depth knowledge of the situation which the Office could not have. One purpose of proposals or suggestions was to create discussion. We believed that, even if our alternative solutions were not adopted, any discussion weighing two alternatives against each other would lead to a better result than a discussion for and against only one alternative. Also, discussion would increase awareness of information, which could then have an effect on later issues of a similar kind, even when the issue in question was resolved in a less 'child-centred' way.

When asked to review the Act and Instructions I did not suggest more power, except possibly the authority to postpone briefly a local decision in cases which were brought to the Office too late for appropriate handling. With 'children's interests' responsibility legislated (in 1989) for each municipal planning and building board, I should, had I still been in office, at least have waited to see how the new system worked, before making the proposal again.

The Most Important Elements, Tentative Conclusions

Looking back and weighing the various principles, some are universally indisputable; for example, the importance of basing all efforts on the needs of children and nobody else (including parents). Confidentiality is also accepted as a principle worldwide, but the degree to which the extended rights of the Norwegian Office are important will depend on the mandate of the office. The child's right to confidentiality in this connection is only necessary if the service is available to children or deals with personal

problems, for example, in the family. The right to protect sources may have to be weighed against trustworthiness. In some societies information will not be accepted if the sources are not revealed. The rule against handling individual cases of family conflict was imperative in the establishment phase to make the proposal acceptable. An office of this kind and size would have been swamped if individual cases were handled, but most important of all were the conditions this rule created for working effectively without getting too involved in a great number of highly emotional issues.

The importance of autonomy and accessibility/availability were, then, the crucial lessons learned about making the Office work. The autonomy of the Norwegian Office was established by law, so it was indisputable. Accessibility was greatly enhanced by the communications systems and the high literacy rate. These factors made it possible for us, knowing the system, to capitalise on the traditions in the decisionmaking process of

- using legislation as a tool and
- relying on multidisciplinary research-based argumentation

for opinions that carried weight within the system. This was imperative to the main method of obtaining results by having an impact on the prevailing attitudes and awareness level regarding children.

The small size of the country helped: even our little office could have direct contact with a high number of local communities and could be an active 'bridge-builder' between various groups easily identified. The formal and informal contacts with political bodies and national administration were also easier for that reason, partly because there was a more limited number of people involved, some of whom moved from office to office, but were still accessible.

A small nation is in itself not a prerequisite for an Ombudsman for Children Office, although a larger nation might well need a different kind of organisation, size and/or mandate for a parallel structure. A multiparty political system might contemplate the establishment of this kind of mechanism, more easily than a one party system but this should not be absolutely essential. So long as the dominant party is willing to listen and to alter its policies for children if the arguments are persuasive, without repercussions for the critics, such approaches should bring results. In any context, but particularly when criticism can be perceived as controversial, the case is much stronger if there is no doubt that the interests being served are really those of children and not the interests of other groups, camouflaged as 'for the sake of children'.

Alternative Ways to Work

Strictly speaking, the work of the Norwegian Ombudsman for Children is not as special as the term might imply. The word is Scandinavian, but trying

to improve legislation protecting children, raising awareness of children, families, and their needs, increasing general understanding of how a changing society impinges on its youngest members, and suggesting measures to protect values, compensate for losses, creating the best possible conditions for growth and development, are all efforts being made in different ways all over the world.

There are at least three main groups of existing alternatives to the Norwegian Ombudsman for Children and others may be visualised. Taking the Norwegian model as a frame of comparison does not reflect on the efficiency of other ways of working. Even if my analysis has reached some conclusions on the relative importance of the characteristics of the Norwegian model, the question of how important they may be in other contexts still remains. Also other alternatives may have strengths and weaknesses that the Norwegian model does not have. Comparison gives grounds for looking into these questions and perhaps raising some new ones. The three mains groups can be outlined as follows:

1. Ombudsmen for Children modified to suit the situation in a different country, but having the common characteristics of being established by public initiative and having an official relationship to government, national or local (eg in Costa Rica, New Zealand, Germany, Israel, Austria, South Australia).
2. Efforts encompassing parts of the responsibility of the Norwegian Ombudsman, established by private initiative, and without official standing (eg in Finland, USA, Great Britain).
3. Other ways of working for the rights of children, which have little or no similarity with the structural model of the Norwegian Ombudsman.

Examples of some alternatives found in different parts of the world are briefly described below.[78] The examples given are by no means an entire list of possibilities (for a more extensive survey, see Verhellen 1989).

OMBUDSMAN OR OMBUDSMAN-RELATED EFFORTS

These are defined as child rights initiatives that bear a similarity to the Norwegian Office and which have been established by a public authority with an officially recognised status in relation to that authority.

Costa Rica

The only other country in the world that has consciously emulated the Norwegian Ombudsman is Costa Rica, where 'El Defensor de la Infancia' was established by Presidential decree in September 1987. Costa Rica, similar to Norway, had an 'Ombudsman tradition', dating back at least ten years. The first Ombudsman for Children, Mario A. Viquez Jimenez, was sworn in in September 1988. The most obvious difference between the Costa Rican

and the Norwegian Office was the establishment: the Costa Rican Office was created by presidential decree, and worked for more than two years before it was legislated. The law then established a group of Ombudsmen, one of them the Ombudsman for Children, under a General Ombudsman, and connected with the Ministry of Justice. The Act is general enough to cover the responsibilities of the various Ombudsman Offices, so the Instructions must specify the particular responsibilities of each one. These Instructions have not been formulated.

There is not a fixed term of office for the Ombudsman, unlike in Norway. But like the Norwegian, the Costa Rican Office is small, with three staff members. It is partly funded by UNICEF, through a national organisation. Interestingly, the first Ombudsman in both countries are psychologists.

There is also a difference in the definition of purpose. The Costa Rican Ombudsman shall protect the *rights* - not the interests - of children, as the Norwegian Ombudsman shall. This has to some degree determined the priorities of the Costa Rican Ombudsman during the first two years. Promotion of the Convention on the Rights of the Child to the public in general, information to organisations on how they can help promote, inform and implement the Convention and putting pressure on politicians to ratify have been areas of initiative (Costa Rica ratified the Convention in July 1990).

The capacity of the Ombudsman Office was somewhat reduced when in late 1989 the Ombudsman (M. Viquez) accepted appointment as Vice Minister of Justice, in spite of some extra help in the Ombudsman Office. The fact that he accepted the appointment created some concern, in view of the necessary independence of an Ombudsman. Many sources were concerned because the possibility of vested interest was demonstrated. A few felt that the prestige of the Ministry of Justice might enhance the prestige of the Ombudsman Office. With a change of political majority (in March 1990) and of the Cabinet in May, he was specifically asked to continue as Ombudsman, while holders of other Ombudsman positions were replaced. Again there were mixed reactions: some saw the 'reappointment' as a personal tribute to a person too strong and valuable to remove from office. Others felt that the opposite might be the case: a non-threatening Ombudsman might be better than a strong one. I was unable to obtain *any* information from any source about issues with which the Ombudsman Office was concerned that were also controversial to either of the major political parties. The parties agreed on the establishment of the Ombudsman Office(s) and the main Ombudsman issues of concern:

- the ratification of the Convention
- the work being done to help street children
- the efforts being made to teach the police how children should be treated.

The long term consequences of the political appointment remain to be seen. Also, only time will show if the close connection with the Ministry of Justice is an advantage. This connection could lead to such a strong emphasis on the legal aspects of problems and conditions for children that the social, educational and financial measures are overlooked or neglected. The issues given priority at present might indicate a development of this kind. On the other hand, the Office has scarcely had the capacity to take on other cases, under the pressure of getting Ombudsman legislation and the Convention through Parliament.

The similarities between Costa Rica and Norway are obvious: both have a small population and a multiparty political system. It is reasonable to believe that the Ombudsman tradition, while short in Costa Rica, nonetheless was more important for the establishment of the Ombudsman for Children than population and number of political parties. For ten years, intensive work for several of these Offices had been going on, creating popular as well as political sympathy for the concept.

Apart from what has already been said, it is too early to report results from Costa Rica. That report should also, of course, come from the Ombudsman there.

New Zealand

In New Zealand, the Commissioner for Children was appointed under a Children, Young Persons, and their Families Act, passed by Parliament in May 1989. The Act 'is the principal Law in New Zealand for dealing with children and young persons (ie those up to the age of 17 years) who need care or protection or who have committed crimes' (personal letter, November 1989). Further: 'In summary the position of Commissioner for Children was established under the CYP & F Act to monitor and review it and to act as a means of redress for those subject to the processes of the Act, and as a means of advice to the Minister. It was also the opportunity to establish a means of investigation, review, advice and publicity in relation to all matters affecting the welfare of children and young persons' (op cit). The Minister referred to is the Minister of Social Welfare, but the office is free to investigate and report on areas 'other than the Social Welfare area.' The fact that the Office is 'established under an Act administered by one Department of State . . . does not restrict its activities to that area and should not limit its independence' (personal communication 1990). Thus, the New Zealand Commissioner may undertake initiatives in the areas of both health and education. Since the first Commissioner is a pediatrician it is perhaps natural that some health issues (eg cot deaths) have some prominence in his Office.

Apart from being established under the 'Children, Young Persons and their Families Act', and not by separate legislation, the New Zealand Commissioner for Children greatly resembles the Norwegian Ombudsman. The

person holding Office can 'only be replaced on retirement, resignation, or by Order in Council', which may give the Office a more permanent profile than its Norwegian counterpart.

West Germany (FRG) (before unification)

Representatives of the German political parties visited Oslo several times to look into the Norwegian model. The Norwegian Ombudsman also visited Bonn, a visit which received unexpected wide TV coverage. Sudwestdeutsche Rundfunk on another occasion made a 45 minute television programme on the Ombudsman.

One difficulty in establishing a national Ombudsman for Children was that West Germany was a federation of states. A national office would therefore have been bound to have a different mandate. In order to meet the acknowledged need for special concern regarding the effects on children of the legislative process, the political groups in the Bundestag appointed one member each to have a special responsibility for this area. Together they constituted the Commission for Children's Concerns, approved by the Council of Elders in spring 1988. The commission is responsible to the Committee on Youth, Family Affairs, Women and Health, ensuring a part in the organisational structure and having direct access to the parliamentary fields of activity.

The main responsibility of the Commission is to review all Federal laws with regard to their effects on children and, if necessary, to influence them. It wants to represent the interests of children both inside and outside Parliament, and give signals with regard to policies concerning children, intending - as resources allow - to be the partner and promoter of associations and organisations, as well as institutions, which support the interests of children. The list of their concerns is long, and in many ways supports the idea that the problems of children in West Germany are very similar to the problems of children in Norway.

Taking a step in the right direction, the FRG acknowledged the need for an intensified effort on behalf of children. '[It is] evident that policies concerning children's concerns must be implemented in a more intense fashion than ever before (at least for a while)' (W. Schmidt, personal communication). The Commission is also 'genuinely interested in commissioners/commissions for children's concerns being appointed or set up in as many cities as possible and in the Land parliaments,' (op cit) suggesting a network of branches all over the country.

Australia

Australia is, like West Germany, a federation of states. There is no statutory national body devoted to furthering the rights of children. The Children's Interests Bureau in South Australia is the only statutory children's rights

group. Established in 1983 by amendments to the South Australia Community Welfare Act, it is partly subject to the direction of the State Minister of Community Welfare, to whom it is responsible and partly independent. As Sally Castell-McGregor says (Verhellen 1989, p. 149): 'The point has been made that the Bureau's close affinity to the Department of Community Welfare by virtue of being 1) set up under its Act and 2) responsible to the same Minister, makes its genuine independence questionable. Suggestions have been canvassed, such as the establishment under a separate Act and responsibility direct to Parliament - similar to our Ombudsman (for Human Rights, my clarification) system' - and more similar to the Norwegian system. And yet 'many people identified the Bureau as the proper body to provide independent advocacy for children at risk and / or in State care' (op cit).

In March 1988 the legislative basis was amended. The Children's Interests Bureau is required to give advice to the Minister of Community Welfare when a child should be taken into State care, or when a child's circumstances while 'in care' are to be reviewed. Consequently, a Child Advocacy Unit, with a staff of five, was established within the Bureau. These staff members attend case conferences concerning individual children. Furthermore, the South Australian Government has decided to establish the Bureau under a separate Act, hopefully to be presented to Parliament in 1991 (personal communication 1991).

In spite of being a part of the system, the Bureau has had success in 'effecting major social welfare and legal reform from within the system' (Verhellen p.152). One reason may be that the Bureau has been 'very fortunate that in South Australia we have a Minister who is deeply committed to children's interests and has supported the Bureau's work at all times. To have an advocate at Ministerial level when resources are scarce is also a distinct advantage. We are fortunate too, in that the Bureau is accepted by all political parties and is used by individual politicians - Federal and State - as a source of information and advice' (op cit).

Austria

Inspired by the Norwegian Office, two different approaches have been established. A national law, The Youth Welfare Law, passed in summer 1989, contains a chapter on Ombudsman offices in each of the states. Such an Office has been established in Vienna, but as of September 1990, this was the only one. The discussion in Austria in October 1990 concerned the idea of establishing a national office on the federal level.

Two years earlier, in October 1987, ORF (Austrian Radio and Television) established a contact telephone service ('Rat auf Draht'). It has a free telephone number and aims at more than answering questions from children. The staff also wants to bring into public focus the problems of children and

in 1990 started to write statements to ministries, based on the children's complaints. The service is also now partially funded by the Ministry of Family and Youth Affairs, but has no official status, for example, as advisor to the authorities.

Israel

The Jerusalem Children's Council was established by the Jerusalem Municipal Council in 1984, to 'function as an informed advocate and lobby on behalf of the children of Jerusalem' (Rauche-Elnekave 1989). The Council has a salaried staff of two (1989), and working groups for special fields. These working groups are chaired by experts and have 15 members. They report to a steering committee, who again reports to the municipal authorities. The working groups establish cooperation with the appropriate authority as need arises, to solve specific problems; for example, safety in cars or guidelines for handicapped children in hospital. An Ombudsman for Children and Youth was established in 1986, as a pilot project for one of these working groups, reporting to the Working Group on Children's Rights. Menachen Horowitz was the Ombudsman until 1989. The Office handles complaints from individual children, even acting as a mediator between children or adolescents and their parents. A particular concern is children in institutions. The success of this work has demonstrated the need for a national office. A Bill was introduced in the Knesset in early 1988 to establish a national Ombudsman for Children, answerable only to the Knesset itself and working out of the office of the Comptroller General of Israel. As of December 1990, the Bill had not been passed, nor had the proposal been shelved (personal communication).

While the Norwegian model was considered, the Council in Jerusalem found that the council itself functions as a general child advocacy organisation. The Jerusalem Ombudsman is autonomous, has a single-interest purpose and is both available and public. Yet there are clear differences between this office and the Norwegian one. The Jerusalem office is municipal and does not have national responsibility. This may be the reason why it has neither the obligation nor the opportunity to criticise administration on any level directly, or to propose legislative amendments. How important this is would depend on the use made of legislation, either as ideals (in the same way as the Ten Commandments, which everybody knows about, but which are not the basis of legislative action) or as actual tools of societal or attitudinal change. Also, the office can handle individual disputes in families, which the Norwegian Ombudsman cannot do.

Rauche-Elnekave (op cit) points out that 'child advocates do not have to assume a man-the-barricades mentality in order to work effectively on behalf of children. Cooperation, education, and persuasion can be as effective as threats and intimidation.' This actually describes the similarity

between the Jerusalem and the Norwegian approach, keeping in mind that threats are only effective if one has the power to follow them up, which the Norwegian Ombudsman does not have either.

The Other Nordic countries

Denmark, Finland, Iceland and Sweden are small, homogeneous countries with multiparty political systems. They also share with Norway a long tradition of Ombudsman institutions, yet none of these countries has as yet established an Ombudsman for Children.

Deliberations concerning a statutory, national Ombudsman for Children had occurred in other Nordic countries even prior to 1981. The interest in the new Norwegian office was reflected in the press all over Scandinavia and discussions of the opportunities for establishing similar offices in the other Nordic countries appeared or reappeared at different times.

Sweden

The term 'Ombudsman' for children was first used in Sweden, and the term was used for a service for children. This 'Ombudsman' was, however, neither public nor statutory. The 'Ombudsman for Children' was established under the auspices of the Swedish 'Save the Children' organisation. The title has, however, been changed to Research Coordinator (1989).

Representatives (under-secretary, top civil servants) of the Swedish government, then led by the late Olof Palme, visited the Norwegian Ombudsman in 1983, to be informed of the Norwegian effort. The Swedish Council of State then decided to establish a group to advise the cabinet directly on issues concerning children and youth. In 1988-89 there was a proposal to incorporate the Barnmiljørådet (Council on Physical Conditions for Children) in the Ministry of Social Affairs. The Barnmiljørådet itself then pointed out that with the loss of an outside critical body, an Ombudsman for Children like the Norwegian one should be established. This would give the Council, enmeshed in a ministry, an ally on the outside - a view that is supported by the Swedish Rädda Barnen. While no solution had been reached in 1990, it is interesting that the discussion has taken on new force.

Denmark

The situation is different in Denmark in that, according to the director of the Danish Save the Children, the country has 120 organisations working for children. Representatives of several organisations at various times invited the Norwegian Ombudsman to speak at meetings. A group under the leadership of a pediatrician helped formulate a proposal for establishing an Ombudsman. The proposal was not only for a national office, but suggested branches in each county and connections with a child research centre. The proposal was shelved by the parliament, probably because it was difficult

to finance the 60 staff members needed. Later a new proposal, with a more narrow scope, was also shelved, probably because the economic situation in Denmark was then very difficult and responsibility for children was being transferred to counties and municipalities. Indeed, one suburb of Copenhagen has established an Ombudsman-like complaints institution for children.

Finland

Finland considered the Ombudsman idea in drafting their newest child protection legislation, but decided to wait and see how the new Code worked before developing the Ombudsman concept further.

Iceland

Iceland conducted its contact with the Norwegian Office by telephone, during a period in which new legislation was being drafted in Iceland. But as in Finland, it was decided to see how the new Code, which included establishing a State Advisory Council for Child Welfare, worked before proceeding.

Joint Nordic interest

In 1989 members of the Nordic Council have proposed that an Ombudsman for Children be established for the Nordic countries, in connection with the Convention on the Rights of the Child. The proposal was not supported by the Standing Committee of Social and Environmental Affairs of the Council, which was of the opinion that Nordic cooperation through existing bodies and mutual adjustment of national legislation for children would serve the purpose.

'OMBUDSMEN'-LIKE OFFICES FOR SPECIFIED PROBLEM AREAS

Public Ombudsman-like offices responsible for more restricted areas concerning children have been established in eg Sweden, Great Britain (London), Belgium (Flanders). These (and others like them) are established to strengthen the position of children and/or youth, to right wrongs, and to criticise when appropriate.

Sweden

Sweden has both an official office representing children's interests in one (large) area and private organisations (Rädda Barnen and BRIS) working for the rights of children.

The public 'Barnmiljørådet' (Advisory Council for Conditions for Children) developed from an independent advisory committee to the Ministry of Social Affairs on play*things*, to an advisory council on *play conditions* to the Council on *physical conditions in general*, dangerous products, accidents, and

planning. It works through recommendations, public seminars, and informational campaigns, and has formal as well as informal contacts with administration and politicians.

Great Britain[79]

In 1985 the Inner London Education Authority discussed establishing an Ombudsman Office for their school system. One restriction was to be that no person under 16 years of age could apply to the Office. In my view this would seriously question whether the Office would be for children or for adults (teachers and parents). But the idea merits interest, being one example of a possible decentralisation (in a country with 16 million people under 18 years of age).

Belgium

'Kind en Gezin' (Child and Family) is a 'semi-governmental' organisation in Flanders, concerned with child care services up to the age of three, with one Ombudsman for each of the five provinces of Flanders, and one coordinating Ombudsman. This way of organising Ombudsman-like service will scarcely get many complaints from the children involved, but is interesting because it illustrates the possibility of splitting a more comprehensive service according to both age and type of problem area.

COMMENTS AND COMPARISONS

Comparing the Offices of New Zealand, Costa Rica, Germany (FDR), South Australia and Israel with the Norwegian Office and in terms of the principles of autonomy and availability, the common factor is that all of them have some kind of public authority recognition; the Council of Elders in Germany and the Jerusalem Office through the mandate of the Children's Council. All of them have independence, but to somewhat different degrees. At least at present, the German and the South Australian brand are inside the government, which raises the question of whether such structures for child advocacy should be located inside or outside government. Located within government, agencies can be more stable, may have more credibility with government officials, close contacts and an inside view of what is going on - as compared particularly to private child advocacy organisations. The other side of the coin is, of course, as pointed out by the South Australian Children's Interests Bureau, that their accountability to the same officials they should criticise can compromise their neutrality and objectivity. Even though this may not be the case in practical terms, inside agencies are none the less more vulnerable to the suspicion that they may be serving other purposes. A friendly government helps, as noted by the South Australian Office, but the picture might be quite different with local or national political opposition. The 'experiment' in Costa Rica, with the Ombudsman in public,

political office for a short period, does not really give any valuable information, partly because the long-term consequences, if any, are as yet unknown. But the consensus seems to be that it would have been better not to risk the neutrality of being 'outside' for any possible advantages of being 'inside'.

In the case of the German Commission it is difficult to visualise this as a measure that will be unhampered by other concerns, particularly party policy interests. The composition, with members of different political views, should to some extent counteract clear-cut party politics, but suspicions of other motives may be difficult to avoid entirely. The importance of this issue depends to some extent on the mandate: keeping an eye on all Federal legislation does not, for example, involve criticism of even the Federal administration, much less local or 'Land' politics or administrative levels. It is in this context interesting to note that in spite of documented success within the system, the South Australian Children's Interests Bureau is in the process of obtaining more independence, by being legislated in a separate Act.

Another difference concerns accessibility, particularly to children, which is an important aspect of the Costa Rican and Norwegian Offices. The South Australian Office may get 'grass roots' information, but only from child welfare/'in care' children - a parallel to the Jerusalem Office. Both of these handle individual cases, which the others do not. The accessibility to 'ordinary' children, parents and other adults not directly involved in one of the numerous associations and organisations which may exist is, in my opinion, imperative if an Office of this kind is to serve as a direct link between children and administrative/political decisionmaking levels - be a voice *for*, and not solely on behalf of, children.

Comparisons raise other questions as well:

- What qualifications should such Offices have? Is the use of research essential?
- Should the Ombudsman/Commissioner have a fixed term of office or not?

The answers to these questions depend to some extent on the mandate of the Office. If the Office is to make a 'public splash' about children's concerns, the Ombudsman should, perhaps, be a person known for his or her ability to make such a 'splash', particularly if the mass media were willing to pick up the issues and increase pressure on politicians. But there is, I think, a limit to how long such an approach would be useful. The long-term credibility of the Office cannot rest on 'big splashes' alone, even with the help of the media. If the 'figurehead' of the Office is a public relations-type person, it is, in my opinion, absolutely necessary that two other requirements are fulfilled:

1. The staff, as a whole, has high-level professional expertise about children. A small staff cannot cover all areas, but at least many of the following fields:

- the normal and abnormal development of children, physical and mental
- family-child dynamics
- family and child law
- the sociology of the community
- knowledge about the administrative and political systems of the community

2. The person in charge must be able to collaborate with and draw upon the expertise of the other staff members.

To gain and uphold credibility, factual information about children and their conditions is essential. This is emphasised by the majority of those working in various offices. In his study of the Norwegian Office, Melton emphasises the use of social science research as an important element for the Office, even pointing out that a special research arm should be established to strengthen the Office. The New Zealand Commissioner also points to the importance of a research base (personal communication, March 1990), and the Costa Rican Office makes use of psychological knowledge. The Viennese staff include a psychologist and a lawyer/social worker, a combination they find most useful (personal communication, October 1990).

The qualifications question can usefully be seen in connection with the question of whether or not to have a fixed term of office. A fixed term has the advantage of making it possible to choose the kind of person wanted in the Office at any given time. The needs may change somewhat, but it might, for instance, be good to have a 'big splash' person in office for a period, and then have another kind of person take over. On the other hand, with a fixed term (or two, with a maximum of 8-12 years in office) a very useful person cannot be kept on. And there is, in my opinion, another definite disadvantage in having a fixed term: people with experience enough to serve in an Office of this kind are often not very young. If they have to leave whatever job they had and then face the insecurity of trying to get a new job when they are 8-12 years older, many qualified people would hesitate. Thus a fixed term can reduce the number of qualified applicants. In Costa Rica the problem is solved by giving the Ombudsman the status of a civil servant. This means that if the person is moved (or leaves office) he or she will get a different job, on the same income level.

Comparison finally raises the very important question of regional or local offices or branches. The German Commission expects offices in cities and the 'Land' level. The South Australian Office is local in the sense that it serves one state, not the entire country, and the Vienna and Jerusalem Offices serve one city. The Costa Rican, Norwegian, and New Zealand Offices are national. This is where the question of the size of the country really may make a difference. The three national offices are all located in countries with

around four million people. Yet, in discussing ways to strengthen the Norwegian Office, Melton says that 'The staff . . . should be substantially increased in order to permit establishment of county-level offices' (Melton 1990, p. 74). He thinks that decentralisation of children's programmes and budgeting by block grants now (but not necessarily in 1981) necessitate county level scrutiny of 'policy at the level at which much of it is now made, while keeping sufficiently few offices that central direction is still feasible and the number of new staff required would not be overwhelming' (op cit). County-level in Norway would mean 20 branches, but not on a level where the really important local decisions are made, which is in the 450 municipalities. Nevertheless, the counties do have a certain supervisory responsibility in relation to the municipalities, which might be expanded to include Ombudsman for Children functions.

Franklin (1989) had the same view, but for different reasons: '. . . unless the post becomes decentralised replacing a single national office with a number of local offices, then the weakness is obvious; the system can handle only a very limited number of cases (763 in the most recent report) and is dealing very much with the tip of an iceberg.'

The points are interesting, but must be seen within the Norwegian context. Given the same proportion between number of cases and number of minors, the number of cases in Great Britain (with 16 times Norway's number of minors) would have been nearly 15,000 cases in 1988 (it is, of course, much harder to guess how many additional issues would have come up). In addition to population size, the very good postal and telephone services makes the office available in a way impossible in countries where hardly anyone has a telephone. Argument against local branches in 1981 was connected with the rule against involvement in family conflict, and the fact that there were already municipal and county services to help with such problems. Conditions have changed, but I would have waited to see how the new possibilities for child involvement based in the Building and Planning Act (adopted to go into force in January 1990) worked out before making the proposal again, had I still been in Office. The protection of children's interests in all planning is not only important in itself, but also provides a specific person to whom parents and children can turn in such matters.

Yet one national office with no local branches may be insufficient. Even with a large staff, the contacts and connections with 'problems where they really exist' may then become too difficult. Existing models may in a sense show how a national network could be built up. The West German model illustrates one possibility, having started 'at the top', but expecting to have branches, presumably reporting to the Bundestag Commission, from cities and 'Land'-levels. The South Australia Children's Bureau might conceivably be a step towards a similar structure, starting at the other end, with one local

branch. Similar offices might be created in the other Australian States, with a Federal Ombudsman for Children to coordinate the work of the State Offices, propose federal legislation and monitor federal government actions concerning children.

The Inner London Education Authority project and the Swedish Council for Physical Conditions for Children indicate a possibility of decentralising by sectors: one ombudsman for education, one for health, one for child welfare, one for rural planning etc. Being restricted in the sense of having a clearly defined problem area can lead to greater efficiency within that area. While this might provide highly specialised Offices, the danger of compartmentalisation (with water-tight sector-compartments) is obvious and would need to be counteracted by having an 'umbrella' Ombudsman Office. One of the advantages of a *less* restricted, particularly national office is the insight into and the opportunity to point out connections and interrelationships between various areas and sectors with impact on children, less obvious to a sector office.

For true monitoring and rapid effect, the Ombudsman needs to be near the decision-making level, on the municipal, county, region, and/or state level, depending on where the decisions with impact on children's daily lives are really made. However, a national 'watchdog' is always needed as well, because every country has national administration, national politicians, national legislation important for conditions for children, in many cases setting the limits for what can be done on a local level.

A Minister for Children? Or a Coordinator for Ministries?

The proposal for having a 'minister for children' has been made in Norway and in Great Britain. Brazil established a ministry for children in 1990. Such proposals may be less similar than they seem superficially due to the different contents of the term 'minister'. In Norway this would be a cabinet (Council of State) member, with a ministry, an administration and funds, while (as Franklin describes it) in Great Britain 'the post would probably be at a junior non-cabinet rank and lack political clout' (op cit). Others suggest that even a junior minister could exert influence by raising the child issue publicly, at the right political moment.

At the bottom of both proposals is the concern for lacking coordination between different ministries and different sectors, the latter on local as well as national levels. The office of minister is, in my opinion, irreconcilable with the functions of an Ombudsman for Children responsible for monitoring and if need be criticising the Cabinet as well as the ministries (including a Ministry for Children). Coordinating efforts should be a concern in all countries. There is no doubt that better coordination would prove financially beneficial. But even a Ministry for Children, Youth and Families should not exclude or prevent the establishment or strengthening of other initiatives.

Other Examples of Child Advocacy Efforts

Other existing child advocacy efforts range from street-corner legal advice 'shops' (eg in The Netherlands), and local 'Hot-Lines' or contact telephones, to national organisations and branches of international organisations, working in their own countries and internationally. Only a few examples will be described here.

Private organisations certainly have their place in the work for children's rights, choosing methods according to conditions in their countries as well as to their special interests, which may be special groups of children or special fields of action.

The Children's Legal Centre, based in London, undertakes research and training as well as lobbying central and local government on issues related to children's rights in general. They publish a newsletter regularly and have undoubtedly obtained results, particularly in legislating legal rights for children.

Others have a special group of children as their main concern. The Children's Defense Fund (CDF) in the USA demonstrates clearly how the size of a child population within a country in itself influences the choice of target area. While CDF does work for all children, its very strong emphasis is on poor children, minority children and handicapped children. The organisation accepts no government money nor do they identify themselves as a 'children's rights' organisation in the sense of focusing on children's civil liberties (Weill 1989). CDF is more of an anti-poverty, anti-discrimination group, advocating greater services and support for children and families. Looking at their results, there can, however, be little doubt that these strengthen the rights of children outside their stated target groups. Laws giving foster children the right to decent care or 'all American children a greater right than they ever had before to obtain support payments from the parent who is not in the home' (op cit), or a right for children born out of wedlock to bring paternity actions and seek child support may concern the target groups most, but are also examples of rights covering a greater number of children. CDF's priority areas are education, maternal and child health, family income, child care, adolescent pregnancy prevention, and foster care. The CDF works through lobbying, based on broad situation surveys and consequence analysis, bringing trial cases to court, public education and technical assistance to agencies and service providers. They also try to ensure that laws are carried out by federal, state and local governments, and use television, radio and advertising, for example, to discourage teenage pregnancies.

The methods used by the CDF are not available to an Office such as the Norwegian Ombudsman. This is not only due to the restrictions in the Ombudsman Act, but to conditions and traditions in society. There is hardly any tradition for anyone to sue local or national government or public

services in order to have a wrong corrected. In part due to the welfare state services, hardly anyone needs to sue for damages or for financial compensations for expenses connected with illness or handicaps, regardless of how these occurred. Having virtually a state monopoly in television and radio, such opportunities for running campaigns are closed to the Ombudsman Office unless the decision is made by the television company (and then without cost to the Office). Broadcasting time is not for sale and can therefore not be bought (an envious note may be detected here; but had such time been available, the budget would not have allowed extensive use of this in any case).

In relation to autonomy, purpose, and availability the CDF secures its autonomy in relation to government by rejecting public funding. Whether or not there are individual contributors (persons, business firms or other organisations) in relation to whom CDF could find themselves under obligation (which seems unlikely) could be decisive for final autonomy.

CDF is not available to children or young people in the sense of receiving complaints from individuals. There can be no doubt, however, that other measures of availability are satisfied: providing information, views and so forth for other sources (eg politicians) is one of CDF's main techniques.

Using autonomy and accessibility as yardsticks again, organisations certainly may have autonomy. Their independence in relation to government is indisputable, unless funding from government sources involves curtailing or muzzling. On the other hand, a lack of any kind of formal relationship to government reduces the possibilities for a substantial impact on the policy-and decision-making levels.

A weakness of non-governmental organisations in relation to broader issues, such as child rights in general, is that their scope is often more limited. This can, however, also be their strongest point. Located in the smaller or larger community in which they work, organisations can asses the overall situation for children, including availability of public and private efforts, and determine what may missing or especially weak. Being free to choose their own focus, the organisations can put in a concentrated effort on those points.

With the exception of organisations with children as members, the organisations are rarely accessible directly to children. Organisations with children as members often have aims which are not very easily compatible with working for the rights of children, for example sports, music etc, and many of them lack communication-channels to the decision-making bodies. Gradually, however, some of these organisations are recognising both a need to modernise their programmes and strengthening their opportunities for involvement in child- and youth-related politics. Some are even beginning to use their own 'parent' organisations (if they have one) as a way to the top, for example political youth and children's organisations.

Notes

75. The child's right to access regardless of whether its parents had lived together or not after the child was born was first raised in 1981. It then led to a battle between the interests of fathers and of mothers, men and women. The child was in a sense lost in the scuffle. The Ministry of Justice at that time shelved the issue. When the ombudsman raised the issue, it was as a child issue, based on the child's needs. This was the reason for the Ministry of Justice's change of attitude, leading to the proposal to the Storting.

76. Melton (1990) says that an ombudsman 'chosen for his or her ability to provide objective leadership on children's issues' is one of the critical elements of the institution. Elsewhere he points out that the ombudsman must be a strong person, but that the power base can be very different from one person to the next. Also, the person must be trustworthy, so that authorities are willing to listen and the public willing to turn to the Office.

77. One Nordic statistic points out that 'In Denmark 84% of the children has his own bedroom compared to 79% in Sweden, 78% in Norway, 68% on Iceland and only 49% in Finland'. This does not tell us how many children there are in each family, the size of the room or the number of beds, whether children share bedrooms with siblings and / or parents, or whether sharing a bedroom is 'good' or 'bad', or how this changes with age. For a baby, sharing a bedroom is probably the best, while for a teenager there might be other views, particularly if sharing with a parent.

78. The information given has as far as possible been checked by people quoted or directly involved in these efforts.

79. In a policy document issued in May 1989, the British Labour Party, under the heading 'New rights under the law' writes: In our society children have no specific legal rights. We believe that, as a basic right children and young people need proper protection and safeguards from abuse and exploitation. They should also have more basic rights and more say in decisions which affect them.

    Since children cannot by themselves sway public opinion nor have an effect on official decisions we believe that there is a need for someone to speak on their behalf.

    We will therefore follow the Norwegian example and establish a Children's Commissioner. The role of this independent official, established by Act of Parliament, will be to promote the interests of children in the private and public sector. This will mean considering the impact of existing legislation and proposed legislation on children, collating and disseminating information on the rights and condition of children, and ensuring that the needs and rights of children are properly protected and respected.' ('Meet the challenge, make the change - final report of Labour's Policy Review for the 1990s'.) This policy does not at present have a majority in Parliament. Nor does the statement give any indication of how such an Office, for a population the size of Great Britain's, could be set up.

Chapter Six

Visions and Views

The UN Convention on the Rights of the Child

The notion that man has rights simply because he is human took centuries to become universally accepted and then to be put into international law. It has been debated by philosophers, lawyers and legislators for the past 2000 years. Codification of *human* rights occurred first on the national level, for example in the United States Declaration of Independence and the French Declaration of the Rights of Man and Citizen. Even these first attempts did not always include all adults - some social classes were given rights after others, females later than males. On the international level, the Geneva Declaration was succeeded by the UN Declaration of Human Rights and other international covenants. But the rights of children - even when children are not clearly excluded - have long been subsumed in the rights of adults, particularly parents and family. Yet when individual human rights for children were recognised, the transition from the first assertion to international law took only 100 years. Some even say that the process only took one generation, since the adoption of the Declaration of the Rights of the Child in 1959, just over 30 years ago. There was not, they say, any broad theory of rights for children until the drafting process of the Convention started - it was created as drafting of the treaty took place (Price Cohen 1990).

WHY A SPECIAL CONVENTION FOR CHILDREN?

In the USA the Supreme Court in 1967 (in re Gault) noted:[80] 'If his parents default in effectively performing their custodial functions - that is, if the child is "delinquent" - the state may intervene.' This quote could have been taken right out of a Norwegian law 700 years old. And the Supreme Court added: 'In doing so, it does not deprive the child of any rights because *he has none*' (emphasis added). The last statement clearly shows why the Convention on the Rights of the Child was needed, even if some feel that it is unnecessary: since children are NOT excluded in other international human rights documents, they have the same human rights as other human beings. Also, there did exist other declarations proclaiming the rights of children, dating back to 1924. But the 1924 Declaration was couched in terms of what 'must be

done' *for* children; they must be fed, nursed, helped. Children were the objects of concern, but did not have their own rights to any of these services. Nor does this document speak of civil or political rights - it was protective, but not liberating. The first sign of civil and political rights for children appeared in the 1959 UN Declaration on the Rights of the Child, which states that a child is entitled from his birth to a name and a nationality.

The Convention represents a turning point in the international movement on behalf of children's rights. During the drafting process, United Nations Secretary General Javier Perez de Cuellar stated: 'The way a society treats its children reflects not only its qualities of compassion and protective caring, but also its sense of justice, its commitment to the future and its urge to enhance the human condition for coming generations. This is as indisputably true of the community of nations as it is of nations individually'. Others (eg the UN Under-Secretary for Human Rights and the Executive Director of UNICEF) have said that the Convention should be seen as 'the cornerstone of a new moral ethos for children'. But the importance of the Convention goes even further: it transposes moral ethos into an international, legal and binding instrument. This in turn makes it more feasible, even obligatory, to raise even sensitive issues publicly, for the attention of top-level officials and politicians. Work already started to map conditions for children as related to the Convention has also uncovered problems hitherto unrecognised in the countries concerned. In other countries concerted efforts to make the Convention known and to put pressure on political bodies to ratify it have created new alliances between national and international non-governmental organisations. In some cases the Convention has been used to involve children and young people in decision-making processes, mostly on a local level, but has also in a few cases had an impact on the amendment of the national Constitution.

Some feel that the Convention reflects the norms and attitudes of industrialised countries and will therefore be less useful in other countries, other cultures. But the Convention sets out, in general terms, the states' obligations towards children, both directly and indirectly; the latter in terms of enabling parents or other adults to carry out their responsibilities to the children. It is comprehensive in the sense that it describes rights for children as being indivisible and mutually reinforcing. The range, as Nigel Cantwell puts it, covers 'the three Ps of provision, protection, and participation' (1989), which all children, wherever they live, certainly need and therefore should have as of right.

The Convention on the Rights of the Child not only puts together in one document the human rights of children, but also puts these rights into terms that reflect the special vulnerability and the changing needs of the growing person. The rights already protected by other covenants have been restated, tailored to the needs of children, and have also been coupled with additional

rights, while some covenant rights have been omitted as unrelated to childhood. When the Convention entered into force on September 2, 1990, UN Secretary-General Javier Perez de Cuellar pointed out: 'The Convention on the Rights of the Child is unique. It addresses the needs of those who are humanity's most vulnerable as well as its most cherished resource . . . Besides incorporating the whole spectrum of human rights, the Convention stresses that respect for and protection of children's rights is the starting point for the full development of the individual's potential in an atmosphere of freedom, dignity and justice . . . Above all, the Convention attempts to provide a framework within which the child, in light of his or her evolving capacities, can make the difficult transition from infancy to adulthood'.

The Secretary-General also pointed out that the Convention recognises the equal worth of the diverse cultural values of the human community and the primary role of the family and parents for the care and protection of children.

Attitudes Towards Children and Towards the Convention

Traditions and culture are important determinants of attitudes. These have, therefore, an influence on the legislative measures adopted within a cultural setting, and also are part of the reason for the variety in laws in different cultures. The level of use and faith in legislation to promote change also varies, often due to how laws are implemented. This means that attitudes towards legislation, international as well as national, can change and the impact of new legislation can vary from time to time. The content as well as the way legislation is formulated reflects the attitudes of the people, for example in relation to children or to the relationship between children, family and society.

Attitudes towards children have obviously changed during the past centuries. But even ancient attitudes are still alive in some parts of the world and, more distressing, they can pop up again in other cultures, sometimes in disguise.

In the old days children were generally treated as the *property* of their parents, with rights falling somewhere between those of slaves and those of animals. They could be sold, married (often to secure property for their families), hired off as servants, left to die. They were maltreated and abused. But even today this happens: children are sold, married young, left to die. They must earn their own living or even provide for a family. They are physically, sexually, emotionally abused or maltreated and they are exploited. The difference is that these ways of treating children are no longer *universally accepted* and are more often done under duress or under cover and are often characterised as criminal, objectionable or otherwise negatively sanctioned. In some of these cases the argument is still that children are the property of their parents. Therefore parents can do as they see fit. But

owning a child is not the same as owning any other object. The Convention on the Rights of the Child is clear in this respect, giving the child the right to voice opinions and to participate in decisions concerning his or her person. The right to make one's own decisions is, however, a right the individual generally only benefits from exercising if he has the maturity necessary to make the decision in question. As long as - and depending on the extent to which - the child is actually unable to decide for himself, it may be necessary for the parents or other adults to have the responsibility to make decisions in the best interest of the child. Acceptance of the child's principal right to have opinions and to make decisions if he is able, creates a condition for parental decisions that is far removed from the view that parents have absolute power over their minor offspring. This view may, however, meet with strong objections in cultures where, for example, religion defines the child as subservient to parental will.

Even those who still use this argument should really be glad that children are NOT the property and therefore the sole responsibility of parents and parents alone. If that were the case, public responsibility would be unnecessary and non-existent. But even the most well meaning, loving and caring parents are unable to meet all the needs of their children alone. A public school system is, for instance, the result of an early and widespread acceptance of the fact that children need more than parents can give (oddly enough, this recognition starts at different ages in different countries). And when the economy becomes more difficult, so that adequate day care or high-quality schools are harder to provide, politicians tend to regress, which in psychological terms means a return to behaviour that is acceptable at an earlier stage of development, but which is actually outgrown. So we again hear: 'Young children are the sole responsibility of their parents. Mothers should stay at home and take care of them.' Or 'We do not want the public to take over responsibility from the parents.' And this is said regardless of the fact that in many industrialised countries the rising prices for housing and staples makes it practically impossible for an increasing number of families to manage without two incomes. If 'the best interest of the child' were the guiding principle, at least questions must be asked concerning whether children *need* preschool for their own sake, to further their development. In small family societies it is increasingly difficult for parents to provide for the social learning needs of preschool children. With only one sibling the family no longer provides age mates, the neighbourhoods cannot supply peers for children of different ages. Traffic and the lack of adequate areas for play and sufficient institutions for children create problems that parents cannot solve on their own.

In other societies the predominant attitude to children is based on the fact that they will eventually grow up. In some countries this still determines the number of children a family has, because - particularly with a high infant

and child mortality rate - it is necessary for parents to secure their old age by having many children to care for them. In other parts of the world, for example in Europe, the small size of the family causes great concern: politicians are pointing out that if parents do not have more children, the society 30 years from now will lack caregivers for the increasing number of old people. There will not be enough taxpayers, consumers or workers for the labour force. Some politicians may even be willing to invest in children for the sake of securing future adults, but not for the sake of children themselves.

Other attitudes have changed as well. Just 100 years ago children were looked upon not as future adults but as small or miniature adults. Adult behaviour was expected, and evil, that is, childish impulses were be beaten out of them as quickly as possible. Children were expected to take on their share of the work, or to bring in their share of the family income. New knowledge about children has led to changes in ways of bringing up children and what demands may be made as children grow, based on the normal capabilities and capacities of children at different stages of development.[81] The value of play as well as learning is more widely recognised. The question is, however, has this gone too far? Exploitation, child labour and lack of education cannot be condoned. In many parts of the world children still have to take on too much responsibility, a problem which must be addressed. But in other parts of the world learning opportunities may have been lost, for example learning to share responsibility for family functioning, to feel that they are a *necessary* part of the family and of a society network. This is good for children's self esteem and also a necessary part of learning how to take on and share responsibilities, how to care for other people. Perhaps some present day children, particularly in industrialised countries, are actually cheated if their lives become all play and no work except in school, totally carefree and without *any* kind of responsibility.

Equal Human Beings?

When children are considered the property of parents or when they are *only* viewed as potential adults, they are not seen as individual human beings with their own very special, but equal value as humans. Even when they are considered 'equal', they may still not get the respect for their dignity and integrity which is accorded to adults. This is reflected in many ways. Hitting a child is legal in most countries, while hitting an adult may lead the offender to prison. Working conditions for adults are secured by law, not so for children. Even in schools, where the children outnumber the adults vastly, there are rarely rules which apply to the working conditions of the pupils.

When children do have rights, for example the right to education, these rights are often indirect. In most countries the child does not have the right to go to school, but the parents have the right to send their child to school.

Rights for children may be conditional, even the legislation stating that the right to a service is only applicable when funds are available. Restating existing rights so that the child is the subject, not the object, of law, will lead to great improvement of the rights for children in many countries.

The Convention gives children their own rights, making them the subject of international law. The rights are in relation to their parents and to the state. The Convention gives parents obligations and certain rights, but not above those of the children. This is expressed by the term 'in the best interest of the child', a very difficult concept in itself, but one which at least clearly puts the interests of the child over the interests of adults, including parents. The Convention places obligations and responsibilities on public authorities, but does not tell how these are to be fulfilled. While the needs of children - and now their rights - are universal, there are many, many different ways to meet them. Countries and conditions vary, traditions and customs as well. The ways each country finds to meet the needs of children will have to be tailored to what needs to be done most and what ways will fit in with the context. So the Convention is not a manual in the sense that it describes procedures. It does describe aims and ideals, but so do other elements of a culture. Each culture has morals, ethics, religious beliefs which guide the behaviour of its members. The Convention does conflict with some of these older rules and ideals in some countries, but these countries, like Islamic countries, will, if necessary, be able to make reservations on this point. Such a country will ratify, agree to comply, 'as long as this is not in conflict with Islam'. In other countries other reservations might be made, but none will be accepted if it goes against the purpose of the Convention.

Many countries will wish Convention articles were stronger, for example, concerning the age limit for children in the armed forces, or that there were fewer reservations, for example, 'as far as resources allow', which weaken the child's absolute right. We have to remember that even if the Convention is a giant step forward, it is not perfect and it has been written to make it possible for the largest possible number of countries to ratify it. Any country can strengthen its claims, simply by adopting national laws that are stronger and that therefore supersede the Convention.

THE IMPORTANCE OF THE CONVENTION AND ITS IMPLEMENTATION

The Convention may become a milestone in the history of mankind. But laws, national or international, are, after all, words on paper. They may codify attitudes, but the real results depend upon how they are implemented, what is done to follow up and to reach the ideals. The Convention will be important all over the world, even in countries that do not ratify. States Parties (those that have ratified) will have a new obligation: to work towards living up to the standards and to report regularly to the international Committee on the Rights of the Child, to be established by March 2,

1991. But even countries that do not ratify will be under scrutiny. *Why* have they not ratified? Is it because their ratification process takes a long time? Or because they feel they are so far away from the standards that it would be indecent to ratify, at least at the present time? Do they have a tradition of not signing international treaties? And what are they doing to improve conditions for children?

As a legal tool, the Convention is a vast step forward in relation to the Declaration on the Rights of the Child and will provide (through the Committee on the Rights of the Child) a means for monitoring progress for children all over the world. In countries where there is a tradition for using legislation to change actively and effectively the situation for children, the Convention will lead to legislative amendments. In Norway some articles (eg treatment of law-breaking minors, or the situation of young refugees and asylum-seekers) will clearly necessitate changes in legislation as well as in the administrative practices. Even if many of the articles of the Convention include 'conditions', for example the availability of resources, the fact that so many articles say, 'The child shall have the right to . . .' will have an impact on attitudes and thinking about children.

In other countries where there is either a distrust of the efficacy of legislation as a useful instrument or a tradition of disregarding the fine principles stated in law, the Convention as a legal tool may be less powerful, although the respect for children and the knowledge of children's needs upon which it is built should have some impact, since it can be used as a political platform, help change attitudes, and illuminate the need for child advocacy.

Monitoring Implementation

Every country that ratifies the Convention will be obliged to present a report every five years to the Expert Committee on the Rights of the Child. This will be a government responsibility, and the report will be a product acceptable to the governing political party(ies). If an Ombudsman (or ombudsman-related mechanism) is to uphold its independence and autonomy in relation to government, this mechanism should not be given responsibility for the national report.[82] The national report must be based on data provided by ministries, national statistics, etc. But to ensure that the report contains *all* relevant material, answers key questions, avoids a bias of one kind or the other, it would be very helpful for the government to have an independent institution to collaborate with. This institution can provide the kinds of information needed to provide better services, based on research relevant to children in their own culture and to suggest improvement of structures for development of child-centred policies, parallel to those the Ombudsman for Children has attempted. This will not only help children, but could help families and communities to meet their responsibilities to children.

Advocacy will be Important Everywhere

The General Assembly of the United Nations, in the preamble to the Convention on the Rights of the Child stated that '. . . in all countries of the world there are children living in exceptionally difficult conditions . . .', which means that all over the world children share a need for advocacy, for special consideration, for stronger initiatives on their behalf. Although the needs of children are pretty much universal, the acute problems of children are certainly not the same all over the world. Children's interests are universally ignored to some extent or given less than the top priority they should have. Since conditions from country to country differ, strategies to improve the situation need to be considered in relation to the population size, demography, communication systems, organisational systems, existing services, political systems, judiciary and legal situation, traditions and culture (including attitudes towards children) and how the needs of children and young people are being met. The advocacy instrument, agency or structure, may not be an Ombudsman like the Norwegian one, but needs to be selected to provide objective leadership on children's issues, autonomous in relation to government,[83] and be accessible, preferably to children as well as to individual adults,[84] organisations, research institutions, administrative and political bodies.

Modifying the Ombudsman Concept

Several international statements pertain directly to an Ombudsman for Children. The most notable, apart from the interest demonstrated by UNICEF, are the recommendation of the Stockholm Statement (Swedish Save the Children Conference, August 1989) to 'encourage establishment of the position of a "Children's Ombudsman" in each country in order to promote and monitor child's rights issues as well as keep abreast of international trends' (§8, Report p. 48) and the recommendation of the European Parliamentary Assembly Committee on Legal Affairs and Human Rights, adopted unanimously by the Council of Europe Parliamentary Assembly's 41st ordinary session, February 1, 1990: 'to envisage - if they have not done so - the appointment of a special ombudsman for children who can inform them of their rights, counsel them, intervene, and, possibly, take legal action on their behalf . . .' (Doc. 6142, 12.A.e. ii).

Both of these support the principle of an Ombudsman Institution, but not necessarily identical to the Norwegian model. As demonstrated in Chapter Five, there are alternatives. Even if the principles of autonomy and availability or accessibility are accepted, there are means of modifying the model to make it more suitable for other cultures.

The Norwegian Ombudsman for Children combines several functions concerning children's needs and rights, which under other circumstances might be separated:

- Receiving complaints and requests from individuals (adults and children) who may be helped directly or indirectly by the Office
- Receiving and giving information, proposals, referrals to and from the local level services and organisations
- Receiving and giving information to and from the administrative branches on the community level, county level and national level
- Communicating information, proposals for changes of procedures decisions, and rules, regulations, legislation to politicians on the local and national levels

The advantages of combining these areas have been described throughout this book. But in view of monitoring conditions for children - or in observation, registration, monitoring or cooperation with the monitoring body of the government - each country might wish to consider whether or not all these functions are to be combined. In some countries the idea of serving as a direct channel of communication between the children themselves and the top-level decision-makers may seem impossible, for example, in view of prevailing religious law. Leaving out this function deprives the children of that opportunity to influence decisions, but does not mean that children have nowhere to go. A child with a problem will often turn to parents or relatives, friends or teachers (who may or may not take the problem elsewhere). They may turn to the local services, including organisations, churches or even lower-level courts. So what they may not have is a service to turn to when the sources they try either cannot or will not help. The same applies to a certain extent to individual adults, but they often have other options, such as the courts, the political parties or politicians, other organisations and the mass media. In some countries these needs may be well served by other existing services, or - on the contrary - be the only function of an Ombudsman service that a country might wish to provide.

Leaving out the child-to-government function does not need to mean that an Ombudsman-like function is impossible or cannot be very useful. Even the combination of giving and receiving information and proposals to and from the local, county/state and national level is often an innovation, and can provide a broader picture of conditions and the feed-back systems between various areas than can be achieved with information from, for example, state level only.

With a large number of organisations already involved in the work for children, an 'ombudsman' need not necessarily be a statutory office established for the purpose. Conceivably a non-governmental organisation might be given (by parliamentary decision) a special responsibility to work for the rights of children, in which case it would be an advantage if public funds, with no strings attached, were provided so that the organisation would be autonomous and independent of other sources.

In this connection it is also possible to visualise an 'umbrella' encompassing a number of organisations,[85] perhaps all the organisations working for children within a country. In Denmark there are, according to Danish Save the Children, 120 organisations working for children. If these organisations could agree to work together, a steering committee could coordinate the work being done by all of them. With such a structure, the steering committee (top of the umbrella) could also propose measures to improve the situation of children and perhaps help monitor the implementation of the Convention on the Rights of the Child.

A different approach can been imagined by looking at the areas of rights covered by the Convention. Although indivisible as a whole and although it is often difficult to classify each article into *one* of the broad areas, UNICEF has simplified understanding of the Convention by pointing out that it covers four broad areas of rights:

- Survival rights, which include such things as adequate nutrition, housing, and access to medical services
- Development rights, which include education, access to information, play and free-time activities, cultural activities and the right to freedom of thought, conscience and religion
- Protection rights, which, in addition to the survival and development rights also cover exploitation, cruelty and abuse, arbitrary separation from the family and abuse in the criminal justice system
- Participation rights, which include the freedom to express opinions and have a say in matters concerning the child's life. As the child matures, he or she shall have increasing opportunity to participate in activities of society and to take part in decisions-making, in the family, in school, and in the widening circle of local community.

In considering systems for efficient monitoring and implementation, a body such as the Ombudsman might not have responsibility related to all four sets of rights. Whether a country is an industrialised or developing country should not influence the decision of whether or not a body of this kind should be established, but will definitely have an impact on the kinds of problem the body will be most concerned with. When the problems of children are so overwhelmingly obvious as they are when survival itself is threatened, these problems may not be the first responsibility of an Ombudsman-like body, even though what is done about them by the authorities may need surveillance and proposals for improvements. In such circumstances it may be less obvious that other rights of children may need a helping hand or that a non-governmental body might have a defined responsibility to keep an eye on other conditions. So-called 'developing countries' can still avoid or prevent some of the mistakes made by the industrialised countries - mistakes that have *created* problems for children. A 'watch-dog' like an Ombudsman might be able to establish measures to prevent such negative

consequences of societal development. Also, it might seem that participation rights need extra surveillance. The rights to survival, development and protection seem obvious to most adults, even when they disagree about the best ways to meet them. But there is a different attitude about participation rights, the child's right to be informed and to have his say in the decision-making process. The opportunities to exercise these rights may be hard to find until there is a more universal acceptance of their importance.

The Choice of a Model or Mechanism

The size of a country, its political system, cultural traditions, organisational structures and the total situation of children will all influence the choice of methods for improving conditions for the younger population. In addition, it can be important to identify the prevalent attitudes or mixtures of attitudes to children within a cultural setting, to help determine the type of advocacy most likely to succeed. These attitudes may also prevail amongst individuals and groups concerned with child advocacy, and may influence their choice of methods. The types of resistance encountered, for example amongst politicians, are certainly at least in part determined by attitudes to children and parents and are easier to overcome or integrate in advocacy efforts when identified.[86]

In many societies attitudes are intricate patterns with many parts. Sub-cultures may have their own clear ideas about how children are supposed to behave, what responsibility the parents have, and 'what is best for children'. The composite picture for the total community may have highly conflicting parts. In other societies attitudes change from time to time, improving as a result of new knowledge or regressing to attitudes held earlier as a result of other influences, for example economic pressures.

For many parents, the child as an individual, as an esteemed member of the family, as emotionally important for parents themselves, carries most weight. For society, the importance of children as future adults perhaps carries more weight. Children and youths as active, participating members of groups, with opinions worth listening to, are often not considered very important. How we view the position of children in society and the question of rights for children will also depend upon the level we consider, which society we are in and our cultural background. Different points of view are not necessarily wrong, so long as they are not used as an excuse for not providing what children need. 'They're only kids' must not lead to over-looking, exploiting or disregarding them, postponing expenses or programmes until children of today are grown-up. Nor must children, because they are small, be denied the opportunity to share their views and ideas with adults and play whatever roles their competence enables them to have.

The prevalent attitudes to children will have an effect on the choice of child advocacy initiatives. In this question as in many others concerning

children, it is a grave mistake to think 'black-white', 'either-or'. Many people speak too often of 'children' from birth to maturity as if this is a homogeneous group. In spite of possible doubts, available knowledge about children's needs in changing developmental stages, about what we can expect and what we can demand from children as they grow must be used. As children grow and change, conditions in communities change, and attitudes towards children also change. We must accept that children are vulnerable *and* need to have their autonomy protected. They *are* fully equal to adults as persons, and yet it would be maltreatment to burden them with fully equal responsibilities. And above all, the balances change as children grow. So adults' mistakes often lie in the fact that the actual needs and changes are not recognised, rights and responsibilities not tailored to the developing person's new opportunities and capacities.

A VOICE FOR CHILDREN - THE VOICES OF CHILDREN

A different, but no less important aspect of this issue is that children themselves in many countries lack connections or a structure for their own complaints. If the adults are unwilling or unable to further the complaint on behalf of their children, children often lack a 'next level' recipient, particularly one that also has connections with the decision-making bodies in society.

Children are rarely asked how they perceive their own situation, how they feel about rights. The right to participate, the right to free speech, and the right to express personal faith and opinions do belong to accepted, universal human rights, rights now again established in the Convention on the Rights of the Child. But these rights are too often denied to children, which is one reason for believing that special rights for children are needed.

There will be little discussion about the validity of the rights to survival, protection and development. These rights are somehow perceived as inherent. But participation rights seem to be perceived as rights that adults will more or less willingly give children as they grow, either reluctantly, because it may mean relinquishing adult authority, or as rewards for good behaviour. But children are just as much born into participation as they are born with the need for food and drink. From the very minute they are born, children exercise a powerful influence on their parents, on family life, on the decisions made in families. Children have instruments for this purpose and use them from birth. They must - as with eating or any other kind of behaviour - learn what is acceptable in their community; the how, when, what, towards whom they can exercise their right to give an opinion and make decisions. They need to participate in peer groups as well as in the family, as described in Chapter One. In adult-led groups, in the family or elsewhere, the kind of leadership provided is important, because the leader also serves as a rôle model. But children need opportunities to solve conflicts amongst them-

selves on their own. Adults may provide alternative solutions, sharing experiences and pointing out consequences, and make decisions when the child is unable to handle the decision or the consequences of a decision. The right to participate, to give views and opinions, does NOT mean having to take responsibility for choices with consequences the young person cannot understand or cannot handle. Here there is a delicate balance between the right to develop and participate and the right to protection. *Over*-protection does not lead to development, but too many failures do not help either.

A different aspect of this is also gaining in importance. If we try to think which personal qualities our young will need in the future, many of us will be uncertain. The world and its communities are changing so quickly that it is hard to say, for instance, what kinds of information children should be getting at school. Even computer languages taught in school today may be obsolete by the time the pupils leave school. Understanding and communication, between nations, different cultures and languages is increasingly important. Precisely because the world is changing so fast, young people must be creative, flexible, imaginative, understanding, responsible, caring and sharing, optimistic and peace loving. Reports from many countries, however, show a strong increase in suicides amongst young people, increasing depression, antisocial behaviour, drug abuse, hopelessness and pessimism, particularly about the future of a world threatened by nuclear destruction, pollution and overpopulation. These tendencies can be counteracted. If children share decision-making and responsibility, so that they feel that they can make a difference, that they can help change things, within their family, their schools and their organisations, they grow up fighting for causes and believing in a better future.

Children have Superior Knowledge

Children should have the right to offer opinions, propose change and make mistakes doing so. If the possibility that mistakes might be made is a criterion for denying anybody the right to try, adults should not be allowed to try new ideas either. There are many opportunities for children and young people to take their part in decision-making processes - opportunities which are far too often denied them. In their family, in their neighbourhoods, in organisations and at school children very often not only have opinions, but superior knowledge. They know not only where the areas *planned* for play are, but the areas being used (often not the ones the adults think). They know what equipment is available, and how much it is used.[87] They know what they want to enrich the areas in which they spend time and learn. They have inside information about causes in school or organisational conflicts. They react soundly (and often loudly) to discrimination or unfair treatment, often seeing this when the adults are 'blind' to what is going on. They know, as 'consumers' what they like or dislike at school, in neighbourhoods, in

organisations. Like anyone else they have to put up with some things they dislike, but that does not mean that, because they are small, they cannot understand reasons or that they cannot - in contrast to many adults - come up with ideas that could ameliorate the situation. Surveys have indicated that when the children are asked for advice and opinions about their surroundings, they usually come up with good ideas for improvement and soundly-based opinions. They may need advice about where to get information, how to present a proposal, which authority would be the right one, which channels they might use to get their views across. But the problem in implementing the suggestions often lies with the adults - first in listening, second in taking the children seriously, and finally, if the idea reaches that stage, in resources.

Children's Part in Decision-making

The weakness of nearly all the efforts described so far has been their lack of accessibility to the children themselves. Attempts have been made to give children an opportunity to speak their minds, in 'children's meetings', 'children's congresses' or 'polls for the young'.

One of the problems in organising 'children's meetings' or a 'children's congress' is the dilemma of wanting the children or young people to voice their opinions, giving them the opportunity to do so, but not giving them any real power or explaining where the limits to their power lie. One also wonders if mock 'courts', 'children's parliaments' or 'children's opinion polls' actually reflect the unadulterated opinions of children. On whatever level children and young people have such opportunities, (which they should have, since even simulated opportunities can be useful learning opportunities) it must be made very clear - to them as well as to anybody else - when they can actually make a decision which will be followed through, and when their opinions are - like anybody else's - subject to decision by and through a democratic process. If they are led to believe that their opinions carry more weight than they actually do, children and young people, like adults, will either give up trying or become rebellious.

More formally organised Youth Councils also give young people an opportunity to voice their views and to learn the decision-making democratic process. The question of representation (who decides, and by which process, which young people can or shall represent whom) is a serious one, particularly if it turns out that the young representatives are the resourceful ones who would probably have 'the upper hand' in relation to their peers anyway. How does one then obtain the opinions of those who are less strong-voiced? (One very positive experience of the Ombudsman office was that obviously handicapped (mentally or physically) children would get in touch, and then tell us of situations the others had not thought of, such as the relative difficulty of getting around in a wheel-chair or on crutches when

all the walks were sanded or gravel, rather than cement or asphalt.) If we only concentrate on and encourage the 'born leaders', we will develop an increasing gap between the leaders and the non-leaders.

Another consideration is whether children and adults should be separated in the decision-making process. Children and young people may feel more free to express their own ideas and their own convictions if they are not overwhelmed by adults. On the other hand, children and young people need to learn to cooperate with adults, just as adults need to learn how to cooperate with the younger generation. So if the adults are there, to give information and advice, care should at least be taken so that the adults do not take over the entire proceedings.

A NEW INSTRUMENT - A NEW ERA?

Ninety years ago the Swedish author Ellen Key called our century 'The Century of the Child'. The twentieth century has not come up to the visions she had of a world built on the needs of children, a better world for all humans. Perhaps the twenty-first century will be better. With the new Convention on the Rights of the Child there is, at least, an international acceptance of the importance of children and of the need to provide adequate conditions for development.

Adequate conditions to promote children's growth and development vary from country to country and within countries. The common denominator for success in creating beneficial conditions is the fact that the needs of children are satisfied, in one or other of many possible ways. How to meet the needs of the young generation is a complex problem, partly because the needs change as the children grow up. Good conditions for very young children do not necessarily meet the needs of older children. A baby cannot survive without the constant attention of a caregiver, the school-age child does as well without continual attention, whilst teenagers protest and oppose even temporary or sporadic adult supervision, although they may, in spite of their protests, need adults more than they are willing to admit. Also, as society changes, new means of providing beneficial conditions must be found, to compensate for values lost or to counteract the detrimental effects of the changes. One of the important things so-called developing countries can learn from the 'more developed' is how values can disappear, so preventative measures, protecting these values can be developed and used in time, for example to compensate for the loss of siblings or other types of peer groups. The experience of how modern technologies, for example traffic or television, affect children can also be useful for countries that have not reached the same ambiguous state of development.

Obviously, the needs of children and how they are being met must be the very first and most important consideration in planning programmes and strategies for improvement. Equally obviously, these considerations must

be taken into account by people or groups with on-the-spot knowledge; by the native population; local organisations and leaders, perhaps helped by others with knowledge of the conditions and initiatives in other countries.

The future of societies depends on how we treat our children. *All* politicians say they 'love children' and they are doubtless responsible for children. They are also only human. Many politicians are well over 45 years old. They are unaware of the fact that children are exposed to situations which their parents - and certainly their grandparents - *could* not be exposed to. Adults born during World War II or before could not experience TV as children. They cannot - on the basis of their memories - understand how TV may affect children. Even so, the boundaries between children and adults seem to be breaking down, as demonstrated by the clothes they wear and in the culture they share, where television, amongst other effects, has provided much more common knowledge and shared culture for children, youth, and adults of all ages. In countries with television, children know about sex, violence, familial conflicts, war, and about conditions in other countries, how children live, how traditions and cultures diffe - often without much understanding, at ages when such knowledge was unthinkable for their grandparents. Many politicians have 'outgrown' the period of having preschool and school age children at home and they have parents who are 70-80 years old and need care. They know that the next services they personally will need are those for the elderly. Also, the elderly are elected. They have the vote and in addition the time and energy that young parents lack, to take on political responsibilities. No wonder services for children lose in the battle of the funds.

Urie Bronfenbrenner once said that civilisations can be judged by the way they treat their children, and I suspect, particularly the weakest among them. Instruments and mechanisms such as ombudsman offices should be particularly alert to the need for protecting and providing for the poorest, the minority groups, the refugees, and the disabled. But, equally important, a sharp eye should be kept on and measures proposed to prevent societal trends that will cause or compound the difficulties of children. Children who grow up healthy, in mind as well as in body, will carry the world forward. All means must be tried to accomplish this. As Franklin put it: 'In terms of policy prescriptions, the strategy for improving children's rights probably lies not in the adoption of any single measure but in deploying a number of complementary proposals' (1989).

The consequences of neglect will span generations and drain resources already in short supply.

Notes

80. The quote did *not* express the opinion of the Supreme Court, but was used to emphasise the changes in attitudes previously expressed towards children.

81. But even these 'truths' can change. Are preschool children really so egocentric or children in general so incompetent as the books 10-20 years ago stated? Do we tend to look for *differences*, between children and adults or between children on different age levels or in different cultures? If so, similarities may be overlooked, disregarded or played down. Competence may go unobserved, perhaps because young children may do things in other ways than older children or adults, giving adult observers a wrong picture of the competence of children, or with too little understanding of the situation in which at least partial mastery takes place. In connection with rights for children, this is important, because so much depends on the maturity of the child, what they can or cannot handle, what they should not be burdened with or should be protected from.

82. Melton, in considering how the Norwegian Ombudsman could be strengthened, suggests that the Ombudsman be given this 'watchdog' and reporting function. I disagree and doubt whether a government *can* delegate this responsibility to an autonomous office. I do, however, believe that the Norwegian Ombudsman can be very important in monitoring implementation of the Convention.

83. In countries where retribution might be a problem, necessary protection should be provided, for example, by establishing a parallel to diplomatic immunity to the Ombudsman Office staff.

84. Melton argues that while case advocacy is useful and helpful in disclosing issues of general concern, individual case advocacy is not necessary for 'functions that a thoughtful, prestigious leader with appropriate investigatory and social science staff support may be especially able to perform' (Melton 1990, p. 84-85). Looking at issues brought up by children, even leading to legislative amendments, I would still argue that if at all possible, accessibility to children should be encouraged. In this connection the right to protect sources of information and to obtain sensitive information, also through investigative rights, would be particularly important.

85. Non-governmental organisations may understandably want to protect their individuality and separate causes. But there can be no doubt that cooperation on many issues would be an advantage. Competition at the expense of effect can be very detrimental.

86. A less obvious effect of adults' views and attitudes towards children - as individuals and as a group - is that the attitudes will influence the children and their development. In any interaction between children and adults there is a continuous interpretation of behaviour, with the child adjusting behaviour according to what the child perceives as important to the adult. Do adults communicate that children are valuable in their own right - or do the signals indicate that the adults are only waiting for the child to grow up? Do adults agree, so that the child gets the same message from many adults or are the messages conflicting and confusing? The signals come from many sources, teachers and organisation leaders gain importance in addition to parents and other children and the mass media, particularly television, including advertising. The communications about values found in mass media are often contradictory to the values of parents and teachers. But authorities responsible for what the children are exposed to are not willing to introduce measures to protect the children. This might serve as one example of a more general discrepancy between professed attitudes and action, the attitudes expressed in principle being that children are important, the actions showing them that this is not true. In many countries it is maintained that schools are important. Yet children are educated in run-down buildings, with tattered books and out-dated information. How can countries that could obviously afford better expect children to respect school property and feel that they - as pupils - are important?

87. Norwegian research indicates that only 10% of all children use playground equipment. It allows little room for variation and quickly loses its challenge. Bicycles, balls, railings, litter bins, laundry racks, garages and benches are frequently used, often for purposes not within their usual use.

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Appendix One

Act and Instructions

THE OMBUDSMAN FOR CHILDREN ACT

§1. Purpose

The purpose of this Act is to contribute to promoting the interests of children in society.

§2. Commissioner for Children

The King shall appoint a Commissioner for Children for a period of four years.

The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.

§3. Duties of the Commissioner

The duties of the Commissioner are to promote the interests of children vis à vis public and private authorities and to follow up the development of conditions under which children grow up.

In particular the Commissioner shall:

a) on own initiative or as a hearing instance protect the interests of children in connection with planning and study reports in all fields,

b) ensure that legislation relating to the protection of children's interests is observed,

c) propose measures which can strengthen children's safety under the law,

d) put forward proposals for measures which can solve or prevent conflicts between children and society,

e) ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The Commissioner may act on own initiative or at the request of other people. The Commissioner for Children himself decides whether an application offers sufficient grounds for action.

§4. Access to institutions and duty to provide information etc

The Commissioner shall have free access to all public and private institutions for children.

Government authorities and public and private institutions for children shall, notwithstanding the pledge of secrecy, give the Commissioner the information needed to carry out the duties of the Commissioner pursuant to this Act. Information which is needed for the accomplishment of the Commissioner's tasks pursuant to §3, second paragraph, litra b, may also, notwithstanding the pledge of secrecy, be demanded from others. When information can be demanded pursuant to this item, it may also be required that records and documents be produced.

The rules laid down in subsection 1, §204 and §§205-209 of the Civil Disputes Act are correspondingly applicable to the Commissioner's right to demand information. Disputes as to the application of these rules may be brought before the District and City Courts, which decide the question by a court ruling.

§5. Statements from the Commissioner

The Commissioner has the right to make statements concerning conditions included in his working sphere. The Commissioner himself decides to whom these statements shall be directed.

§6. Instructions for the Commissioner and the Panel

The King lays down general instructions for the organisation and procedures of the Commissioner and the Panel. Beyond this the Commissioner and the Panel carry out their functions independently.

§7. Entry into force, etc

This Act is applicable to Svalbard.

The Act shall enter into force from the date prescribed by the King.

INSTRUCTIONS FOR THE COMMISSIONER FOR CHILDREN AND THE ADVISORY PANEL

Laid down by Royal Decree of 11 September 1981 pursuant to §6 of Act no 5 of 6 March 1981 relating to the Commissioner for Children.

§ 1. Duties

In accordance with these instructions the Commissioner for Children shall carry out the duties of the Office according to the Act relating to the Commissioner for Children. The Commissioner in pursuing his duties shall work to ensure that the needs, rights and interests of children are given the necessary consideration in all areas of society. The Commissioner does not have the authority to decide cases or set aside decisions in the administration. The term 'children' shall here be understood to mean persons up to the age of majority.

The Commissioner should ensure that the public is informed about his work.

§2. How cases are taken up

The Commissioner takes up cases on his own initiative or at the request of other people.

Anyone may apply to the Commissioner. The Commissioner shall ensure that the verbal applications are put into writing.

A person applying to the Commissioner should, insofar as possible, explain the grounds for the application and submit whatever information and documents are available in the case.

If an application concerns a specific child and the application does not come from the child himself, the Commissioner shall not deal with the case without the permission of the relevant child. When the child's age so indicates, the permission of the guardian shall also be obtained. If general considerations so indicate, the Commissioner may deal with the case even though permission as mentioned above has not been obtained.

§3. Rejection

The Commissioner shall reject applications concerning concrete, individual conflicts between a child and its guardians, between the guardians mutually concerning the exercise of parental responsibility and similar matters. The Commissioner shall in such cases give the reason for the rejection and offer information about any exiting instances established for the purpose of handling conflicts of this mature.

A rejection by the Commissioner cannot be appealed.

§4. Referrals

Applications relating to conditions which in the main concern questions relating to the application of the law or the handling of the case are to be referred by the Commissioner to the Storting's Ombudsman for Public Administration when this is relevant.

If an application concerns a situation which may be brought before an administrative agency, the person applying to the Commissioner for Children may be advised to take the matter up with the relevant body. The Commissioner himself may also send the matter to this body.

If an application concerns a situation which can be referred to the Public Prosecution Authority or a special supervisory body, after a more detailed investigation of the circumstances of the case the Commissioner may send the case to the relevant authority if the conditions pursuant to subsection 6 of §13b of the Public Administration Act obtain.

§5. Shelving of cases

If the Commissioner finds that the application has been made for a situation which does not offer grounds for criticism or for any follow-up procedure, the case may be shelved. The Commissioner may also shelve a case if the situation which the application concerns has been remedied or has ceased to exist.

At any stage in the proceedings, the Commissioner may also shelve a case for reasons connected with work. However, the Commissioner should try to deal with a representative selection of cases.

Anyone who has applied to the Commissioner shall be informed of the shelving of the case and the reasons for this.

The shelving of the case by the Commissioner cannot be appealed.

§6. Rules for dealing with cases

Chapters I-III of the Public Administration Act and the Freedom of Information Act are applicable to the activity of the Commissioner.

Before making his statement the Commissioner shall ensure that the case is clarified as far as possible. The Commissioner determines what steps should be taken to clarify the circumstances in the case.

Also when this does not follow from other rules the Commissioner shall preserve secrecy about the source of information he has used when the source has expressly requested this.

§7. The Commissioner's statement on the case

The Commissioner shall personally adopt a standpoint on all cases which have been taken up for discussion and have not been shelved pursuant to §5 of the Instructions. As a basic rule the opinion of the Commissioner shall be formulated as a written statement, giving the grounds for this.

The Commissioner himself decides to whom the statement shall be directed. The statement can also be directed to the press and the broadcasting corporation or others to the extent which the Commissioner finds expedient.

The Commissioner shall not express an opinion on the position in regard to the law when the Storting's Ombudsman for Public Administration has made a statement or when the situation has either been decided by the courts or has been brought before the courts for a decision. Even so, the Commissioner may criticise the factual and legal situation which has been revealed by the Ombudsman for Public Administration's statement or by the decision of the courts.

§8. Annual report

Each year by 1 April the Commissioner shall submit a report to the Ministry about his activities in the preceding calendar year. The report shall be available to the public.

§9. Personnel and financial administration

The Commissioner is appointed by the Council of State for a period of four years. No one can be Commissioner for more than a total of eight years.

The Commissioner has a secretariat available to him to assist with his work. The staff of the secretariat are employed according to rules laid down by the Ministry.

The Commissioner's Head of Division is the permanent deputy for the Commissioner. The Commissioner and his Executive Officers should have varied professional backgrounds.

The rules for the administration of the finances in the Ministries and the rules for the organisation and work procedures of the Ministries shall be applicable insofar as possible.

§10. The Advisory Panel for the Commissioner for Children

In connection with the office of the Commissioner a Panel has been established. The Panel is appointed by the Council of State for a period of four years. It consists of six members with personal proxies as well as the Commissioner himself as the head of the Panel.

The Ministry is empowered to make additional appointments if a member or a proxy resigns during the period.

The Panel shall function as an advisory, consultative body for the Commissioner for Children and shall assist the Commissioner in his work by discussing questions concerning the activity of the Commissioner. Both the Commissioner and the rest of the Panel members may take up questions they believe should be discussed. The Commissioner may submit questions on the solution of individual cases also to individual members of the Panel.

The Panel shall not have any externally oriented function, nor any decision-making powers in relation to the Commissioner.

The Panel should meet at regular intervals at least four times a year. If at least two members of the Panel so demand, the Panel shall be summoned to an extraordinary meeting. The summons to the Panel meetings are given by the Commissioner with at least

two weeks notice. The agenda and documents in the case shall be sent out at least one week before the meeting.

The Ministry is entitled to take part in the meetings of the Panel. The Commissioner may permit other people to participate in the meetings.

Minutes shall be kept of the meetings of the Panel.

Appendix Two

Poll Regarding the Ombudsman for Children, November 1989

E. Tambsfoss, Markeds-og Mediainstituttet, Oslo

TRANSLATION AND SUMMARY OF RESULTS BY M. GRUDE FLEKKØY

The 'Markeds- og media-instituttet' carried out an interview investigation concerning the Ombudsman for Children in November 1989, as part of the comprehensive interviews done each month. This was three months after the change of Ombudsman, with the wide publicity this received. The sample consisted of 1094 persons over 15 years of age, a random sample drawn from a wider sample to represent the different types of Norwegian communities, age groups, and sex.

The total sample splits into the following sub-groups:

Sex:	537 males	557 females		
Ages:	15-24 years	25-39 years	40-59 years	over 60 years
	214	302	291	287
Regions:	Oslo	Eastern	Western	Middle area	North
	126	474	248	148	99

***Political parties:**

AKP/ml	SV	A	V	Sp	Kr.F	H	Frp	?
3	145	296	25	40	66	227	92	112

Size of household:

1 child	2 children	3 children	0 children
241	226	108	519

The questions were presented orally, to one subject at a time. No reply options were given, the answers were noted and categorised by the interviewer.

The questions were, in this order:

1. Do you think that there is enough concern and consideration for children's interests and conditions in our society?

Fifteen per cent felt that the interests of children are well taken care of. The percentage in this category rose from seven per cent in age group 15-24 years to 25% for those over 60. Forty-four per cent felt that this was the case in some areas, not in other (the areas are not specified), while 37% felt that the concern for children's interests and conditions were insufficiently considered. Five per cent gave no answer. Thus, 81% indicate some degree of dissatisfaction over the consideration and concern shown for children and this needs.

2. Do you know the name of a national body/institution which has working for the interests of children as its responsibility?

It was possible to give more than one answer, so the total percentage was 142%. Seventy-four per cent mentioned the Ombudsman for Children, 23% the national child welfare services, 13% the local child welfare service and 32% gave other answers.

The interviewer noted the first reply to question 2. Forty-six per cent mentioned the Ombudsman first, 42% said 'don't know' first, the rest giving other answers.

3. The Ombudsman for Children was established by the Storting in 1981. Do you know the name of any person who has had or has the position?

Eighty-three per cent mentioned the new ombudsman, 38% the other, the rest did not know. Here too it was possible to come up with more than one answer; the total percentage was 138%.

4. Can you remember any special cases the Ombudsman has worked with or can't you remember any right now?

With perhaps the exception of what was loosely termed 'child abuse' no case was clearly better remembered than any other.

5. Do you know of any type of case which the Ombudsman is not allowed to handle?

Seventy-five per cent were not aware of any type of case the Ombudsman Office cannot handle.

6. How many people do you think are employed in the Ombudsman Office? If you don't know, you can guess.

Forty per cent thought the staff consists of five people or less. Thirty-five per cent thought the staff consists of 10-50 people, 3% thought it must be more than 50 people (15% thought there were 6-9 staff members).

7. Have you yourself or has anyone you know been in touch with the Ombudsman for Children?

Ninety-two per cent had neither been in contact with the Office nor knew anyone who had. The highest percentage of those who knew somebody who had been in touch was the age group 15-24 (11%).

8. Do you feel that the Ombudsman for Children is useful, should the Office be closed or do you not have an opinion on this question?

Eighty-three per cent feel the Office is useful, 15% 'don't know', 2% think it should be closed. The only difference between sub-groups is that while 76-100% of the voters for other parties feel the Office is useful, 'only' 65% of the Progressive Party voters feel this way, 25% of them 'don't know'. Of the voters for the parties that did not want to establish the office, 76-88% now feel it is useful; 3-5% of these voters think it should be discontinued.

None of the questions disclosed large differences between sub-groups, particularly when taking the relative sizes of the subgroups into consideration. The results for the total group are therefore to a large degree representative of the subgroups. Where there are differences which may be of interest, these are noted.

* Political parties:

AKP/ml:	small, extreme left (no seats in the Storting)
SV:	Socialist Left Party
A=DNA:	Labour Party
Frp:	Party of Progress (most conservative)
H:	Conservative Party
KrF:	Christian Democratic Party
V:	Liberal Party
Sp:	Centre Party

Appendix Three

Hearing Statements 1982-1989

Source / recipient indicated by ( )

1982

Ethical guidelines for research with children (Norwegian Council of Research) 1 page

Proposed amendments to the Nursery school and Kindergarten Act (Ministry of Consumer Affairs and Government Administration) 7 pages

Proposed rules for admittance to Secondary Schools (Ministry of Church and Education) 3 pages

Proposal for Research on Traffic Safety for Children, report no. 28 from the Nordic Traffic Safety Council (State Directorate of Roads) 3 pages

NOU[1] 1981:35: The Role of the Police in Society, part 1 (Ministry of Justice) 2 pages

NOU 1982:13: Simplification of the Building Act (Ministry of Local Government and Labour) 9 pages

Norwegian Standard for mechanical and physical characteristics of Toys (Norwegian Standardising Corp.) ½ page

NOU: 1982:14: Setting the amount and increments of child support payments (Ministry of Justice) 5 pages

School-buildings, what can be done to accommodate pupils with special needs? (Norwegian Council of Compulsory Schools) 3 pages

Proposal for changing the rules for financial aid for school transportation (confidential) (Ministry of Church and Education) 8 pages

NOU 1982:10: The Role of Specialists in the Health Services, institutions etc. (Ministry of Health and Social Affairs) 6 pages

Proposal from the International Chamber of Commerce on guidelines for advertising for children (Ombudsman for Consumer Affairs) ½ page

Proposal for Research projects in Traffic Safety Research (State Directorate for Roads) 2 pages

Proposal for amendments of the Labour Conditions Act regarding Working hours (Ministry of Consumer Affairs and Government Administration) ½ page

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1. NOU: Norwegian public report (author's translation)

NOU 1982:15: A new income-system for the municipalities (Ministry of Local Government and Labour) 32 pages

1983

NOU 1982:26: Child Abuse and Neglect (Ministry of Health and Social Affairs) 16 pages

NOU 1982:14: Setting the amount and collection of Child support payments, letter no. 2 (Ministry of Justice) 6 pages

Plan of action for activities against abuse of women (Ministry of Health and Social Affairs) 5 pages

Draft proposal for rules for deduction of expenses connected with visitation rights (Ministry of Finance) 7 pages

NOU 1983:3: Mass media and media policies (Ministry of Culture and Scientific Affairs) 23 pages

NOU 1982:27: Distribution of Functions and Administrative arrangements (Ministry of Local Government and Labour) 5 pages

The Labour Conditions Act and young employees (Ministry of Local Government and Labour) 2 pages

NOU 1983:15 The Planning Act (Ministry of the Environment) 14 pages

Draft amendments of the Building regulations caused by amendments of the Building Act (Ministry of Local Government and Labour) 3 pages

Proposal for prohibition of highly inflammable textiles (State Pollution Control Authority) 2 pages

Proposal for law, regulations and guidelines for county responsibility in child welfare and child welfare institutions (Ministry of Health and Social Affairs) 5 pages

Revision of Act concerning financial support to private schools (Ministry of Church and Education) 6 pages

Draft for amendment of drivers' licence rules regarding lowering age limit for driving motorised bicycles, motorcycles and go-carts within enclosed areas (State Directorate for Roads) 3 pages

NOU 1982:38: Political Committees and Boards in the municipalities (Ministry of Local Government and Labour) 12 pages

NOU 1983:9: The Film and Video Act (Ministry of Justice) 6 pages

Proposed amendments to rules for setting grades, final exams and final school reports for students in the compulsory school (Ministry of Church and Education) 2 pages

Draft regulations for motorised transportation toy equipment for children (State Pollution Control Authority) 5 pages

Draft Adoption Act (Ministry of Consumer Affairs and Government Administration) 13 pages

Proposal for new traffic rules (State Directorate for Roads) 7 pages

Proposal for National budget (fiscal year 1984) regarding compulsory schools (Ministry of Church and Education) 4 pages

Proposal from the Planning Committee on extended rules concerning building plans (Ministry of the Environment) 4 pages

Supplement to NOU 1983:15 The Planning Act, proposals for consequence analyses (Ministry of the Environment) 4 pages

1984

Proposal for regulations for giving warning of work to be done on public roads (State Directorate for Roads) 4 pages

Revision of Act on support to private schools, procedural rules (Ministry of Church and Education) 2 pages

Draft regulations for practice of the Nursery school and Kindergarten Act, paragraph on the purpose of these institutions re religious content (Ministry of Consumer Affairs and Government Administration) 5 pages

Additional commentary to draft for new traffic rules (State Directorate for Roads) 2 pages

Regulations for the use of safety belts in the back seats of cars (State Directorate for Roads) 3 pages

Proposal for new regulations for the standard of public roads (State Directorate for Roads) 3 pages

Draft circular letter concerning children with handicaps in nursery schools and kindergartens (Ministry of Consumer Affairs and Government Administration) 6 pages

On the Compulsory School (from the Ombudsman to the Standing Committee of Education in the Storting) 8 pages and enclosures

NOU 1983:47 The Immigrant and Foreigners Act (Ministry of Justice) 7 pages

Regulations for safety measures in the Building regulations, concerning staircases, balconies etc. (Ministry of Local Government and Labour) 2 pages

Representation from the social sector in the Building Board (Ministry of Health and Social Affairs) ½ page

Proposed amendment of the Building Act §12.4 (County administrator, Vestfold) 2 pages

Proposal for amendments of regulations concerning space, localities, play areas and staff of nursery schools and kindergartens (Ministry of Consumer Affairs and Government Administration) 27 pages

NOU 1984:5 Advertising on radio and television (Ministry of Cultural and Scientific Affairs) 6 pages

Guidelines for safe playthings (State Product Control Authority) 3 pages

Guidelines for playthings which may be harmful for hearing (State Pollution Control Authority) ½ page

Rules for the use of Snow scooters (State Directorate for Roads) ½ page

New Income system for the municipalities (to the political parties in the Storting) 34 pages

Simplification of the Building Act (Ministry of Local Government and Labour) ½ page

NOU 1983:57 The Penal Code (Ministry of Justice) 3 pages

The European Council Convention on acceptance and fulfillment of decisions on parental custody rights and re-establishment of parental authority and the Hague Convention on the civil aspects of international child abduction (Ministry of Justice) 3 pages

Videos containing banned material (Standing Committee for Justice) 3 pages

NOU 1984: 17: Perinatal care in Norway (Ministry of Health and Social Affairs) 3 pages

NOU 1984: 6: Private car policies (Ministry of Transport and Communications) 5 pages

1985

Draft guidelines for educational content in the compulsory schools (State Council for the compulsory School) 20 pages

Draft proposal for Act for an Ombudsman for the Handicapped (Ministry of Health and Social Affairs) 4 pages

NOU 1984:20: Future organisation of 'Free-time institutions for school children' (Ministry of Consumer Affairs and Government Administration) 12 pages

NOU 1984:9 Simplification of the Building Act, part II (Ministry of Local Government and Labour) 3 pages

Concerning consequence analyses in connection with the planning of extensive road projects (State Directorate for Roads) 2 pages

Draft General Plan for Traffic Safety Research 1986-1989 (State Directorate for Roads) 3 pages

Council for the Penal Code, Report on Pornography (Ministry of Justice) 8 pages

Report on Children who need special help and support (Municipality of Oslo, Nursery school and kindergarten administration) 3 pages

Proposed amendment of the Marketing Act, §§4 and 5 (Ministry of Consumer Affairs and Government Administration) 5 pages

Draft guidelines for educational content in the compulsory school, part 2 subject curricula (State Council for the Compulsory School) 7 pages

Proposal to the Storting on Family Policies (The Standing Committee on Social Affairs) 14 pages

Legal actions which should be taken in connection with artificial insemination (Ministry of Health and Social Affairs) 6 pages

Proposal from Working Group on the collaboration between preschools and schools (Ministry of Consumer Affairs and Government Administration and the Ministry of Church and Education) 7 pages

Amendments to the regulations of the Nursery school and Kindergarten Act concerning space and staff (Municipality of Oslo) 2 pages

Safety measures for baby-sleds, guidelines (State Pollution Control Authority) 2 pages

Measures to prevent motorcycle accidents (State Directorate of Roads) 3 pages

Road systems and Road standards (State Directorate for Roads) 6 pages

NOU 1984:9: Simplifications of the Building Act, part III (Ministry of Local Government and Labour) 3 pages

Proposal for compulsory training for drivers of motorised bicycles (State Directorate of Roads) 2 pages

NOU 1985:11 TV 2 (second national channel) (Ministry of Cultural and Scientific Affairs) 11 pages

Report on 'Better Childhood' (Municipality of Oslo) 5 pages

1986

Draft guidelines for establishing and running 'Park-aunt'-activities (Ministry of Consumer Affairs and Government Administration) 7 pages

Actions for protection against the damages of tobacco (Ministry of Health and Social Affairs) 4 pages

The age limit for hunting and trapping (Ministry of the Environment) 2 pages

NOU 1985:18: The Social Services Act (Ministry of Health and Social Affairs) 37 pages

Proposal to the Storting on amendments of the Child Welfare Act (Ministry of Health and Social Affairs) 2 pages

NOU 1985:37 Hospital Autopsies (Ministry of Health and Social Affairs) 6 pages

Proposal for removal of demand for a driver's licence for driving go-carts within an enclosed area (State Directorate of Roads) 2 pages

Legal actions which should be taken in connection with ex utero fertilisation (Ministry of Health and Social Affairs) 2 pages

NOU 1985:34 Conditions for Life for the Mentally Retarded (Ministry of Health and Social Affairs) 13 pages

NOU 1986:2 Proposal for a new Marriage Act (Ministry of Justice) 17 pages

Report of the Family Education Committee (Ministry of Church and Education) 4 pages, 11 attached documents

1987

NOU 1986:26 Lifespan Learning (Ministry of Church and Education) 2 pages

Proposal for amendments in regulations concerning child welfare institutions (Ministry of Health and Social Affairs) ½ page

Proposal for banning production, import, and sale of oil lamps with loose wicks and poisonous lamp oil (State Pollution Control Authority) 2 pages

Parents and Children Act Question of changing rules on visitation rights and custody (Ministry of Justice) 22 pages

The Compensation Act - standardisation of restitution for physical damages to children (Ministry of Justice) 10 pages

Prosecution in cases of abuse of women (Ministry of Justice) 8 pages

Safe packaging (State Pollution Control Authority) 3 pages

Proposal to the Storting on amendments of the Railway Act (Ministry of Transport and Communications) 7 pages

Draft proposal to the Storting on level of child support payments (Ministry of Justice) 5 pages

NOU 1987: 18 Simplification rules of court (Ministry of Consumer Affairs and Government Administration) 2 pages

Safety and security measures for passengers in motorcars (State Directorate of Roads) 6 pages

Regulations for Children in hospital (Ministry of Health and Social Affairs) 4 pages

Draft regulations for films and videos (Ministry of Cultural and Scientific Affairs) 16 pages

Parents and Children Act. Visitation rights for children whose parents have not lived together after the birth of the child. (Ministry of Justice) 5 pages

Working Group Report on Norwegian gypsies (Ministry of Health and Social Affairs) 6 pages

NOU 1987:21 Coordination of laws concerning the use of areas (Ministry of the Environment) 2 pages

Plan for Children 0-12 years old (Municipality of Stavanger) 3 pages

Proposed amendment of rules for the use of safety and security measures while riding a car/motorcycle, particularly the use of helmets (State Directorate for Roads) 4 pages

Report from the Public Committee on 'The Role of Men', (Ministry of Consumer Affairs and Government Administration) 6 pages

NOU 1987: 23 Guidelines for setting priorities in the health services and

NOU 1987: 25 Hospital services in Norway (Ministry of Health and Social Affairs) 9 pages

1988

Regulations for local radio transmissions (Ministry of Cultural and Scientific Affairs) 1 page with attachment of 3 previous statements on mass media, advertising in radio and television and TV2 (see above)

Proposed amendments of the Building and Planning Act (Ministry of the Environment) 5 pages

Bill on acceptance and accomplishment of foreign rulings on custody and return of children to their parents (Ministry of Justice) 1 page

Proposed regulations of bans on violence products (State Pollution Control Authority) 3 pages

NOU 1987:27 The Role of the police in society, part II (Ministry of Justice) 2 pages

Proposed amendments of the Road Traffic Act, and its regulations on the use of helmets by horseback riders (State Directorate of Roads) 3 pages

NOU 1987:9A Possible reforms in working hours of adult employees (Ministry of Local Government and Labour) 13 pages

Draft proposal to the Storting on temporary law on trying advertising in the Norwegian Radio and Television Corporation (Confidential) (Ministry of Cultural and Scientific Affairs) 2 pages and previous statements

NOU 1988:7 Personal payments for services within the health and social welfare services (Ministry of Health and Social Affairs) 5 pages

NOU 1987: 36: Care functions in case of armed conflict (Ministry of Health and Social Affairs) 4 pages

Regulations for safe packaging of certain products (State Pollution Control Authority) 2 pages

Amendments of Building regulations of 1987 (State Technical Building Administration) ½ page

NOU 1987:34 The Culture and Education of the 'Sames' (Ethnic Nordic minority group) (Ministry of Cultural and Scientific Affairs) 11 pages

Guidelines for the use of professional consultants in cases concerning custody, daily care, and visitation rights (Ministry of Justice) 4 pages

New regulations concerning who shall be considered as living in Norway according to the Child Support Act of 24 October 1946 (Ministry of Health and Social Affairs) 2 pages

NOU 1988:8 Concerning Bill on Psychiatric Health Care without the express permission of the patient (Ministry of Health and Social Affairs) 3 pages

NOU 1988:12 Sharing a household (Ministry of Consumer Affairs and Government Administration) 2 pages

1989

Proposed amendment of ban on skateboards (State Pollution Control Authority) 4 pages

Guidelines for beds for small children (State Pollution Control Authority) ½ page

Proposed amendments of the nursery school and Kindergarten Act concerning rules for licence and simplification of regulations (Ministry of Consumer Affairs and Government Administration) 8 pages

NOU 1988:29 Investigation and prosecution in cases of incest (Ministry of Justice) 8 pages

Regulations on simplified procedure in road traffic cases (State Directorate on Roads) ½ page

Proposed regulations for the compulsory school (Ministry of Church and Education) 6 pages

NOU 1988:33 The role of Psychologists in the municipal health and social service systems (Ministry of Health and Social Affairs) 5 pages

The fight against violence crimes. Ban on pornography (Ministry of Justice) 4 pages

Guidelines for highchairs and bunk beds (State Pollution Control Authority) ½ page

General action plan for equal status for men and women, proposal for certain changes in the Working Conditions Act (Ministry of Local Government and Labour) 2 pages

NOU 1988:40 Data policies in Public Administration in the 1990s (Ministry of Consumer Affairs and Government Administration) 2 pages

Ban on transportation of passengers in freight space of trucks and vans (State Directorate for Roads) ½ page

Guidelines for security measures concerning doors and staircases (State Pollution Control Authority) ½ page

Pamphlet on children in hospital (Ministry of Health and Social Affairs)

Appendix Four

Children's Rights and Responsibilities

(Pamphlet translated by Målfrid Grude Flekkoy, 1989)

Children have rights which increase as they grow older. With rights come duties and responsibilities. The right to take a paid job means, for example, that the person has an obligation to do the job as well as he or she can and comply with agreements made concerning that job. Not all rights or duties can be found in law. Duties to be done at home, for example washing dishes or clearing up, should be agreed upon by children and adults. The following list of rights is not complete. Children and young people must collaborate with adults, in school and at home, about the rights listed here as well as the ones not on this list.

7 years:
- right and obligation to go to school
- right to see films for children[1]

12 years:
- Legal right to express opinion on matters that concern him/her personally. The importance of the child's opinion gains with increasing age.
- The child must agree if he/she is to be adopted.
- Right to see films for adolescents[2]

13 years:
- Right to take a job that does not affect health or school, eg in vacations or as newspaperboy/girl
- Right to be exempted from payment of taxes (within certain limits)

14 years:
- Right to be heard by parents/guardians in financial questions concerning the young person
- Right to take job as part of education or vocational training
- Right to be warned and given opportunity to state opinion in cases concerning him/herself being handled by public services (school, child welfare committee)
- Can be arrested, tried and imprisoned[3]

15 years:
- Right to decide choice of education
- Right to decide membership in organisations, including church

- Right to appeal or go to court to change decisions made by the child welfare board against the will of the parents
- Right to use money he/she has earned as he/she wishes (if the income is high, the child may reasonably be expected to share expenses for his/her upkeep)
- Right to work for pay as described in the Labour Conditions Act, as long as health and education do not suffer.
- Must have own passport to go abroad. Parents must give permission for the young person to obtain passport.

16 years:
- Right to go to adult films
- Right to buy tobacco
- Right to demand confidentiality (including parents) from doctors
- Right to buy and get license for motorised bicycle
- Age of sexual consent. When both parties are over 16, sexual activity is legal as long as it is voluntary
- Public child allowance stops

Up to 18:
- Children can be held financially responsible for damage done purposely or through negligence. Parents are required to cover damages up to 1000 Ncr if the child is unable to pay.
- Right to public child pension if one parent dies
- Forbidden to work night shifts
- Can become ward of the child welfare system
- Must have parental consent to get married

18 years:
- Age of majority. Can make all personal and financial decisions
- Right to vote
- Right to get driver's license for automobiles and heavy motorcycles
- Right to buy wine and beer
- Right to apply for extended child support when completing secondary education.

Notes

1. The lower age limit was set to five years in 1988, with new age limits at ten and 15. A child also was given the right - with his parents' consent - to see a film with an age limit in the bracket above the child's actual age.

2. See note above.

3. The age limit was raised to 15 years effective from January 1, 1990.

A Voice for Children

Speaking Out as Their Ombudsman

Målfrid Grude Flekkøy

In this century there has been a growing recognition that children's special needs and life circumstances require a special - an extra - response from society, in law and in practice. The new United Nations Convention on the Rights of the Child represents a turning point in the international movement on behalf of children's rights. Many nations will now find it useful to develop a mechanism to serve as watchdog for children's rights and to monitor the evolving situation of their children against the international standards laid down in the Convention. The Norwegian Ombudsman for Children experience offers one approach. Målfrid Grude Flekkøy was the first - and until 1988 the only - Ombudsman for Children in the world. This analytical evaluation of the Norwegian experience covers administrative and practical issues and shares the knowledge gained from eight years' work. The author covers in depth the range of cases that came up and discusses the ethical and practical questions these raised. One chapter describes alternative ways of working, leading to tentative conclusions on what makes such models work. The final chapter takes a closer look at the Convention on the Rights of the Child and its importance both in countries that ratify and those that do not.

The Author

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Jessica Kingsley *Publishers*
118 Pentonville Road
London N1 9JN

ISBN 1-85302-118-0

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